

WSR 08-16-121
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed August 5, 2008, 4:05 p.m., effective September 5, 2008]

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

Purpose: 2SSB 5467, as amended by the house (chapter 283, Laws of 2007), directs the department to create the individual and family services program for persons with developmental disabilities. These proposed rules combine the previous three family support programs into one comprehensive program and include the algorithm to determine the individual and family service levels and award amount. When effective, these rules replace the emergency rules filed as WSR 08-14-014 and 08-15-115.

Chapter 388-828 WAC, Individual and family services assessment: WAC 388-828-9000 What is the individual and family services assessment?, 388-828-9020 What is the purpose of the individual and family services assessment?, 388-828-9040 How does DDD determine your individual and family services level?, 388-828-9060 How does DDD determine your individual and family services rating?, 388-828-9100 How does DDD determine the number to use in the adjustment of your individual and family services support rating?, 388-828-9120 How does DDD determine your individual and family services score?, and 388-828-9140 How does DDD determine the amount of your individual and family service award?

Chapter 388-832 WAC, Individual and family services program: WAC 388-832-0001 What definitions apply to this chapter?, 388-832-0005 What is the individual and family services program?, 388-832-0007 What is the purpose of the individual and family services (IFS) program?, 388-832-0015 Am I eligible to participate in the IFS program?, 388-832-0020 Will I be authorized to receive IFS services if I meet the eligibility criteria in WAC 388-832-0015?, 388-832-0022 What determines the allocation of funds available to me to purchase IFS services?, 388-832-0023 If I qualify for another DDD service, will my IFS program be reduced or terminated?, 388-832-0024 If I participate in the IFS program, will I be eligible for services through the DDD home and community based services (HCBS) waiver?, 388-832-0025 Am I eligible for the IFS program if I currently receive other DDD paid services?, 388-832-0045 What if there are two or more family members who are eligible for the IFS program?, 388-832-0050 How do I request IFS program services?, 388-832-0055 How long do I remain eligible for the IFS program?, 388-832-0060 Can DDD terminate my eligibility for the IFS program?, 388-832-0065 If I go into a temporary out of home placement, will I be eligible for IFS upon my return home?, 388-832-0067 If I am a parent with a developmental disability and a client of DDD, are my children eligible for IFS program services?, 388-832-0070 What is the IFS program wait list?, 388-832-0072 Who is eligible to be on the IFS program wait list?, 388-832-0075 Do I have to have a DDD assessment before I can be added to the IFS wait list?, 388-832-0080 How or when am I taken off the IFS wait list?, 388-832-0082 If the DDD assessment determines I am not eligible for the IFS program, may I remain on the IFS

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Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.040.

Other Authority: 2SSB 5467 (chapter 283, Laws of 2007).

Adopted under notice filed as WSR 08-11-095 on May 20, 2008.

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 107, 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 107, Amended 0, Repealed 0.

Date Adopted: July 30, 2008.

Stephanie E. Schiller
Rules Coordinator

Chapter 388-832 WAC

INDIVIDUAL AND FAMILY SERVICES PROGRAM

NEW SECTION

WAC 388-832-0001 What definitions apply to this chapter? The following definitions apply to this chapter:

"Agency Provider" means a licensed and/or ADSA certified business that is contracted with ADSA or a county to provide DDD services (e.g., personal care, respite care, residential services, therapy, nursing, employment, etc.).

"Allocation" means an amount of funding available to the client and family for a maximum of twelve months, based upon assessed need.

"Authorization" means DDD approval of funding for a service as identified in the individual support plan or evidence of payment of a service.

"Back-up Caregiver" is a person who has been identified as an informal caregiver and is available to provide assistance as an informal caregiver when other caregivers are unavailable.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020(3) who also has been determined eligible to receive services by the division under chapter 71A.16 RCW.

"DDD" means the division of developmental disabilities, a division within the aging and disability services administration (ADSA), department of social and health services (DSHS).

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

"Emergency" means the client's health or safety is in jeopardy.

"Family" means individuals, of any age, living together in the same household and related by blood, marriage, adoption or as a result of sharing legal custody of a minor child.

"Family Home" means the residence where you and your relatives live.

"Formal Caregiver" is a person/agency who receives payment from DDD to provide a service.

"Individual Provider" means an individual who is contracted with DDD to provide medicaid or waiver personal care, respite care, or attendant care services.

"Individual Support Plan" or **"ISP"** is a document that authorizes the DDD paid services to meet a client's needs identified in the DDD Assessment.

"Informal Caregiver" is a person who provides supports without payment from DDD for a service.

"Legal Guardian" means a person/agency, appointed by a court, which is authorized to make some or all decisions for a person determined by the court to be incapacitated. In

the absence of court intervention, parents remain the legal guardian for their child until the child reaches the age of eighteen.

"Parent family support contract" means a contract between DDD and the parent to reimburse the parent for the purchase of goods and services paid for by the parent.

"Pass through contract" means a contract between DDD and a third party to reimburse the third party for the purchase of goods and services paid for by the third party.

"Primary Caregiver" is the formal or informal caregiver who provides the most support.

"Residential Habilitation Center" or **"RHC"** is a state operated facility certified to provide ICF/MR and/or nursing facility level of care for persons with developmental disabilities per chapter 71A.20 RCW.

"Significant change" means changes in your medical condition, caregiver status, behavior, living situation or employment status.

"State funded services" means services that are funded entirely with state dollars.

"State supplementary payment" or **"SSP"** means a state paid cash assistance program for certain DDD clients eligible for supplemental security income per chapter 388-827 WAC.

"You" means the client.

DESCRIPTION

NEW SECTION

WAC 388-832-0005 What is the individual and family services program? The "individual and family services program" (IFS Program) is a state-only funded program that:

(1) Provides an array of services to families to help maintain and stabilize the family unit; and

(2) Replaces WAC 388-825-200 through 388-825-242 (the family support opportunity program), WAC 388-825-252 through 388-825-256 (the traditional family support program), WAC 388-825-500 through 388-825-595, (the flexible family support pilot program), and WAC 388-825-244 through 388-825-250 (other family support rules).

NEW SECTION

WAC 388-832-0007 What is the purpose of the individual and family services (IFS) program? The purpose of the IFS program is to have one DDD family support program that will:

(1) Form a partnership between the state and families to help support families who have a client of DDD living in the family home; and

(2) Provide families with a choice of services and allow families more control over the resources allocated to them.

ELIGIBILITY

NEW SECTION

WAC 388-832-0015 Am I eligible to participate in the IFS program? (1) You are eligible to be considered for the IFS program if you meet the following criteria:

- (a) You are currently an eligible client of DDD;
 - (b) You live in your family home;
 - (c) You are not enrolled in a DDD home and community based services waiver defined in chapter 388-845 WAC;
 - (d) You are currently enrolled in traditional family support, family support opportunity or the family support pilot or funding has been approved for you to receive IFS program services;
 - (e) You are age three or older as of July 1, 2007;
 - (f) You have been assessed as having a need for IFS program services as listed in WAC 388-832-0140; and
 - (g) You are not receiving a DDD residential service.
- (2) If you are a parent, you are eligible to receive IFS program services in order to promote the integrity of the family unit, provided:
- (a) You meet the criteria in subsections (1)(a) through (f) above; and
 - (b) Your child who lives in your home is at risk of being placed up for adoption or into foster care.

NEW SECTION

WAC 388-832-0020 Will I be authorized to receive IFS services if I meet the eligibility criteria in WAC 388-832-0015? Meeting eligibility criteria for the IFS program does not ensure access to or receipt of the IFS program services.

(1) Receipt of IFS services is limited by availability of funding and your assessed need.

(2) WAC 388-832-0085 through 388-832-0090 describes how DDD will determine who will be approved to receive funding.

NEW SECTION

WAC 388-832-0022 What determines the allocation of funds available to me to purchase IFS services? The allocation of funds is based upon the IFS assessment described in chapter 388-828 WAC. The DDD assessment will determine your service level based on your assessed need.

NEW SECTION

WAC 388-832-0023 If I qualify for another DDD service, will my IFS program be reduced or terminated? Since your IFS amount is based on the assessed need, if your needs change, the dollar amount will be impacted. However, if you are qualified for another DDD service, you can still receive IFS as long as you continue to have an assessed need and have met the eligibility criteria for the IFS Program.

NEW SECTION

WAC 388-832-0024 If I participate in the IFS program, will I be eligible for services through the DDD home and community based services (HCBS) waiver? (1) If you participate in the IFS program you may not participate in the DDD HCBS waiver at the same time.

(2) You may request enrollment in a DDD HCBS waiver at any time per WAC 388-845-0050.

(3) Participation in the IFS program will not affect your potential waiver eligibility.

NEW SECTION

WAC 388-832-0025 Am I eligible for the IFS program if I currently receive other DDD paid services? If you receive other non-waiver DDD funded services, you may be eligible for the IFS program.

NEW SECTION

WAC 388-832-0045 What if there are two or more family members who are eligible for the IFS program? If there are two or more family members who are eligible for the IFS program, each family member will be assessed to determine their IFS program allocation based on their individual need.

NEW SECTION

WAC 388-832-0050 How do I request IFS program services? You may contact your DDD case/resource manager at any time to request IFS program services. You will receive written notice of DDD's approval or denial along with your administrative hearing rights.

NEW SECTION

WAC 388-832-0055 How long do I remain eligible for the IFS program? To remain eligible for the IFS program you must be reassessed at least every twelve months or sooner if there is a significant change in your needs per WAC 388-828-1500 and you must meet all eligibility criteria described in WAC 388-832-0015.

NEW SECTION

WAC 388-832-0060 Can DDD terminate my eligibility for the IFS program? You may be terminated from the IFS program for any of the following reasons:

- (1) You no longer meet DDD eligibility per WAC 388-823-0010 through 388-823-0170;
- (2) You no longer meet the eligibility criteria for the IFS program per WAC 388-832-0015;
- (3) You have not used an IFS program service during the last twelve calendar months;
- (4) You cannot be located or do not make yourself available for the annual DDD assessment;
- (5) You refuse to participate with DDD in service planning; and/or
- (6) You begin to receive a DDD residential service.

NEW SECTION

WAC 388-832-0065 If I go into a temporary out of home placement, will I be eligible for IFS upon my return home? You can apply for the IFS program once you return home from placement by contacting your DDD case manager, if your out of home placement does not exceed twelve months. Your case manager will schedule an assessment

with you and, if you meet all the eligibility criteria described in WAC 388-832-0015, have an assessed need, and funding is available, you will receive an IFS program allocation.

NEW SECTION

WAC 388-832-0067 If I am a parent with a developmental disability and a client of DDD, are my children eligible for IFS program services? If you are a parent with a developmental disability and a client of DDD, your children may be eligible for IFS program services if funding is available and your children:

- (1) Are ages birth through twenty-one years of age;
- (2) Are at risk of out of home placement; and
- (3) Live with you.

INDIVIDUAL AND FAMILY SERVICES PROGRAM WAIT LIST

NEW SECTION

WAC 388-832-0070 What is the IFS program wait list? The IFS wait list is a list of clients who live with their family and the family has requested family support services. At the time of the family's request for IFS program services, funding was not available; therefore these clients were placed on the IFS program wait list effective on the date of their request.

NEW SECTION

WAC 388-832-0072 Who is eligible to be on the IFS program wait list? To be on the IFS wait list you must live in your family home and remain eligible for DDD services.

NEW SECTION

WAC 388-832-0075 Do I have to have a DDD assessment before I can be added to the IFS wait list? You do not have to have a DDD assessment prior to your name being added to the IFS wait list.

- (1) Your name and request date will be added to the wait list.
- (2) A notice will be sent to you to let you know your name has been added to the IFS wait list.

NEW SECTION

WAC 388-832-0080 How or when am I taken off the IFS wait list? You are taken off the wait list if:

- (1) You no longer live in your family home;
- (2) You are no longer eligible for DDD services;
- (3) You request your name to be removed from the IFS wait list;
- (4) You do not respond to IFS notification to schedule the DDD assessment;
- (5) You are offered IFS services and accept or refuse services;
- (6) You are on the HCBS waiver; or
- (7) Your DDD assessment determines you are not eligible for the IFS program.

NEW SECTION

WAC 388-832-0082 If the DDD assessment determines I am not eligible for the IFS program, may I remain on the IFS wait list? If the DDD assessment determines you are not eligible for the IFS program, you may remain on the wait list; however, your request date will change to the date of your current assessment.

NEW SECTION

WAC 388-832-0085 When there is state funding available to enroll new clients in the IFS program, how will DDD select from the clients on the IFS program wait list? When there is state funding available for new IFS participants, DDD may enroll participants based on the following considerations:

- (1) Clients who have requested residential habilitation center (RHC) respite, emergency services, or residential placement, prior to June 30, 2007.
- (2) Clients with the highest scores in caregiver and behavior status on the mini assessment.
- (3) Clients who have been on the IFS program wait list the longest.

NEW SECTION

WAC 388-832-0087 What happens next if I am selected from the IFS program wait list? If you are selected from the IFS program wait list:

- (1) Your DDD case/resource manager will contact you, and determine if you meet the eligibility criteria for IFS program per WAC 388-832-0015 (1) through (6);
- (2) If you meet the criteria per (1) above, your case/resource manager will schedule an appointment to complete your DDD assessment or reassessment.
- (3) If you have not been receiving any DDD paid services, your DDD eligibility will need to be reviewed per WAC 388-823-1010(3)
- (4) Your DDD eligibility must be completed prior to completing the DDD assessment.

NEW SECTION

WAC 388-832-0090 If I currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, will I qualify for the IFS program? If you currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, you qualify for the IFS program if you meet the eligibility criteria in WAC 388-832-0015.

NEW SECTION

WAC 388-832-0091 If I currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, will that funding continue until my next assessment? If you currently receive funding from the traditional family support (TFS) program, the family support opportu-

nity (FSO) program or the family support pilot (FSP) program, you will continue to receive funding under the TFS, FSO, or the FSP program until your next DDD assessment.

NEW SECTION

WAC 388-832-0095 What happens if DDD finds me ineligible for the IFS program? If you do not meet the criteria for the IFS program, DDD will terminate your individual and family services eligibility and funding. You will receive written notice of this decision along with your administrative hearing rights.

ASSESSMENTNEW SECTION

WAC 388-832-0100 What assessment will DDD use to assess my need? The DDD assessment will be used to assess your need. The DDD assessment is an assessment tool designed to measure the support needs of persons with developmental disabilities, and is described in chapter 388-828 WAC.

NEW SECTION

WAC 388-832-0110 Will DDD ask about my family's income? DDD is required to request family income information for:

- (1) Families of children who are seventeen years of age or younger; and
- (2) All individuals who are receiving state-only funded services.

NEW SECTION

WAC 388-832-0113 Will my IFS allocation be impacted by my income? The amount of services you receive will be solely based on your assessed needs. Your income will not affect your level of service.

NEW SECTION

WAC 388-832-0114 What is family income? Family income is defined as the total unadjusted, annual family (or household) income from all sources for the last calendar year as reported to the internal revenue service (IRS).

NEW SECTION

WAC 388-832-0115 How is an individual's access to DDD paid services affected if family income information is not provided? An individual's access to DDD paid services is not affected when families decline to provide DDD with family income information.

NEW SECTION

WAC 388-832-0120 Will my IFS allocation be impacted if I am eligible for medicaid personal care services? If you meet financial and functional eligibility for Medicaid personal care services, your IFS allocation will be

adjusted according to WAC 388-828-9100 through 388-828-9140.

NEW SECTION

WAC 388-832-0123 Will my IFS allocation be impacted if I am eligible for private duty nursing or the medically intensive program? If you meet eligibility for private duty nursing described in WAC 388-106-1000, or the medically intensive program described in WAC 388-551-3000, your IFS allocation will be adjusted according to WAC 388-828-9100 through 388-828-9140.

NEW SECTION

WAC 388-832-0125 Will my IFS allocation be impacted if I am eligible for COPEs? If you are eligible for COPEs, your IFS allocation will not be adjusted.

NEW SECTION

WAC 388-832-0127 What if I have assessed needs that cannot be met by the IFS program? If you complete the DDD assessment and are assessed to have an unmet need and there is no approved funding to support that need, DDD will offer you referral information for ICF/MR services. In addition, DDD may:

- (1) Provide information and referral for nonDDD community-based supports;
- (2) Add your name to the waiver data base, if you have requested enrollment in a DDD HCBS waiver per chapter 388-845 WAC; and
- (3) Request short term emergency services as an exception to rule (ETR) per WAC 388-440-0001. Approval is required by the director of DDD or designee.

NEW SECTION

WAC 388-832-0128 When is the individual support plan effective? (1) For an initial individual support plan, the plan is effective the date DDD signs and approves it after a signature or verbal consent is obtained.

(2) For a reassessment or review of the individual support plan, the plan is effective the date DDD signs and approves it after a signature or verbal consent is obtained.

ALLOCATION

NEW SECTION

WAC 388-832-0130 What is the amount of the IFS program allocation my family is going to receive? The DDD assessment, described in chapter 388-828 WAC, will determine your level of need. The IFS program annual allocations are as follows:

- (1) Level 1 - Up to \$2,000;
- (2) Level 2 - Up to \$3,000;
- (3) Level 3 - Up to \$4,000; and
- (4) Level 4 - Up to \$6,000.

NEW SECTION

WAC 388-832-0132 May I request to exceed the level at which I was assessed? (1) The DDD assessment was designed to measure the support needs of persons with developmental disabilities; therefore your level may not exceed the level at which you were assessed.

(2) If a significant change occurs, you may contact your DDD case manager for a possible reassessment of your support needs.

NEW SECTION

WAC 388-832-0135 How can my family use its IFS program allocation? Your IFS program allocation is available to pay for any of the services listed in WAC 388-832-0140 if:

- (1) The service need relates to and results from your developmental disability, and
- (2) The need is identified in your DDD assessment and identified on your ISP.

NEW SECTION

WAC 388-832-0136 If I have a family support reimbursement contract, can DDD ask me to verify my purchases through reviewing receipts? (1) If you have a family support reimbursement contract, you will first need prior approval from your DDD case manager and then DDD will ask you to verify your purchases through reviewing receipts.

(2) You need to submit receipts to your case manager whenever you are asking for reimbursement.

(3) Your request for reimbursement must be received within ninety days of the date that the service was received and no later than thirty days after the end of your allocation year.

NEW SECTION

WAC 388-832-0137 May I use my allocation over a two year period for large costly expenditures? (1) You may not use your allocation over a two year period for a large costly expenditure.

(2) Your annual allocation must be used during the twelve month period your assessed needs were determined.

(3) If you do not use all of your allocation, your remaining dollars do not carry over to next year's allocation.

(4) If at least some of your IFS program services are not used in the twelve month period, you will be terminated from the IFS program.

NEW SECTION

WAC 388-832-0139 If I have a significant change assessment, what happens to my allocation? If you have a significant change assessment, one of the following changes may occur under WAC 388-828-9000 through 388-828-9140:

(1) If the algorithm does not change your IFS program level, your funding will not change.

(2) If the algorithm changes your level to a higher IFS program level, the difference is added to your fiscal years allocation.

(3) If the algorithm changes your level to a lower IFS program level, your allocation will not be changed until your next annual assessment. At that time your allocation will be calculated with your current information.

SERVICES

NEW SECTION

WAC 388-832-0140 What services are available through the IFS program? The services available in the IFS program are limited to the following:

- (1) Respite care (WAC 388-832-0143 through 388-832-0160);
- (2) Therapies (WAC 388-832-0170 through 388-832-0180):
 - (a) Physical therapy (PT);
 - (b) Occupational therapy (OT); and
 - (c) Speech, language and communication therapy.
- (3) Architectural and vehicular modifications (WAC 388-832-0185 through 388-832-0189);
- (4) Specialized medical equipment and supplies (WAC 388-832-0200 through 388-832-0210);
- (5) Specialized nutrition and clothing (WAC 388-832-0215 through 388-832-0225);
- (6) Excess medical costs not covered by another source (WAC 388-832-0165 through 388-832-0168);
- (7) Co-pays for medical and therapeutic services (WAC 388-832-0235 through 388-832-0245);
- (8) Transportation (WAC 388-832-0250 through 388-832-0260);
- (9) Training and counseling (WAC 388-832-0265 through 388-832-0275);
- (10) Behavior management (WAC 388-832-0280 through 388-832-0290);
- (11) Parent/sibling education (WAC 388-832-0300 through 388-832-0310);
- (12) Recreational opportunities (WAC 388-832-0315 through 388-832-0325); and
- (13) Community service grants (WAC 388-832-0370 through 388-832-0375).

NEW SECTION

WAC 388-832-0143 What is respite care? Respite care is short term intermittent relief for persons normally providing care for individuals receiving IFS program services.

NEW SECTION

WAC 388-832-0145 Who is eligible to receive respite care? You are eligible to receive respite care if you are approved for IFS program services and:

- (1) You live in your family home and no one living with you is paid to be your caregiver.
- (2) You live with a paid caregiver who is your natural, step, or adoptive parent.

NEW SECTION

WAC 388-832-0150 Where can respite care be provided? (1) Respite care can be provided in the following location(s):

- (a) Individual's family home; or
- (b) Relative's home.

(2) Respite care can also be provided in the following location(s) but require a DDD agency respite contract:

- (a) Licensed children's foster home;
- (b) Licensed, contracted and DDD certified group home;
- (c) Licensed boarding home contracted as an adult residential center;
- (d) Licensed and contracted adult family home;
- (e) Children's licensed group home, licensed staffed residential home, or licensed childcare center; or
- (f) Adult day health.

(3) Additionally, your respite care provider may take you into the community while providing respite care.

NEW SECTION

WAC 388-832-0155 Who are qualified providers of respite care? Providers of respite care can be any of the following individuals or agencies contracted with DDD for respite care:

- (1) Individuals meeting the provider qualifications under chapter 388-825 WAC;
- (2) Homecare/home health agencies, licensed under WAC 246-335-012(1);
- (3) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes and foster group care homes;
- (4) Licensed and contracted adult family home;
- (5) Licensed and contracted adult residential care facility;
- (6) Licensed and contracted adult residential rehabilitation center under WAC 246-325-012;
- (7) Licensed childcare center under chapter 388-295 WAC;
- (8) Licensed child daycare center under chapter 388-295 WAC;
- (9) Adult day/health care centers contracted with DDD; or
- (10) Certified provider per chapter 388-101 WAC when respite is provided within the DDD contract for certified residential services.

NEW SECTION

WAC 388-832-0160 Are there limits to the respite care I receive? The following limitations apply to the respite care you can receive:

- (1) Respite cannot replace:
 - (a) Daycare, childcare or preschool while a parent or guardian is at work; and/or
 - (b) Personal care hours available to you. When determining your unmet need, DDD will first consider the personal care hours available to you.
- (2) Respite providers have the following limitations and requirements:

(a) If respite is provided in a private home, the home must be licensed unless it is the client's home or the home of a relative of specified degree per WAC 388-825-345;

(b) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence; and

(c) If you receive respite from a provider who requires licensure, the respite services are limited to those age-specific services contained in the provider's license.

(d) The respite care provider cannot be your natural, step or adoptive parent living with you.

(3) Your caregiver will not be paid to provide DDD services for you or other persons at the same time you receive respite services.

(4) The need for respite must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

(5) If your personal care provider is your parent, your parent provider may not be paid to provide respite services to any client in the same month that you receive respite services.

NEW SECTION

WAC 388-832-0165 What are considered excess medical costs not covered by another source? Excess medical costs are medical expenses incurred by a client after medicaid or private insurance have been accessed or when the client does not have medical insurance. This may include the following:

- (1) Skilled nursing services (ventilation, catheterization, and insulin shots);
- (2) Psychiatric services;
- (3) Medical and dental services related to the person's disability and an allowable medicaid covered expense;
- (4) Prescriptions for medications; and/or
- (5) Co-pays and deductible limited to your IFS allocation.

NEW SECTION

WAC 388-832-0166 How are excess medical costs paid? (1) Excess medical costs are reimbursed to a family member who has a family support contract with the division of developmental disabilities and receipts are received within thirty days from the date of service.

(2) Skilled nursing services are paid to the DSHS contracted nurse directly.

NEW SECTION

WAC 388-832-0168 Are there limits to excess medical costs? There are limits to excess medical costs.

(1) The payment must be of direct medical or remedial benefit to the individual and necessary as a result of the individual's disability;

(2) Medical and dental premiums are excluded for family members other than the DDD eligible clients; and

(3) The need for excess medical costs must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

(4) Prior approval by regional administrator or designee is required.

NEW SECTION

WAC 388-832-0170 What therapies can I receive?

The therapies you can receive are:

- (1) Physical therapy;
- (2) Occupational therapy; and/or
- (3) Speech, hearing and language therapy.

NEW SECTION

WAC 388-832-0175 Who is a qualified therapist?

Providers must be certified, registered or licensed therapists as required by law and contracted with DDD for the therapy they are providing.

NEW SECTION

WAC 388-832-0180 Are there limits to the therapy I can receive? The following limitations apply to therapy you may receive:

(1) Additional therapy may be authorized as a service only after you have accessed what is available to you under medicaid and any other private health insurance plan or school;

(2) DDD does not pay for treatment determined by DSHS to be experimental;

(3) DDD and the treating professional determine the need for and amount of service you can receive;

(a) DDD may require a second opinion from a DDD selected provider.

(b) DDD will require evidence that you have accessed your full benefits through medicaid, private insurance and the school before authorizing this service.

(4) The need for therapies must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocations.

(5) Prior approval by the regional administrator or designee is required.

NEW SECTION

WAC 388-832-0185 What are architectural and vehicular modifications? (1) Architectural and vehicular modifications are physical adaptations to the home and vehicle of the individual to:

(a) Ensure the health, welfare and safety of the client and or caregiver; or

(b) Enable a client who would otherwise require a more restrictive environment to function with greater independence in the home or in the community.

(2) Architectural modifications include the following:

(a) Installation of ramps and grab bars;

(b) Widening of doorways;

(c) Modification of bathroom facilities; or

(d) Installing specialized electrical and/or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

(3) Vehicular modifications include the following:

- (a) Wheel chair lifts;
- (b) Strap downs; or
- (c) Other access modifications.

NEW SECTION

WAC 388-832-0190 Who is a qualified provider for architectural and vehicular modifications? The provider making these architectural and vehicular modifications must be a registered contractor per chapter 18.27 RCW and contracted with DDD.

NEW SECTION

WAC 388-832-0195 What limits apply to architectural and vehicular modifications? The following service limitations apply to architectural and vehicular modifications are in addition to any limitations in other rules governing this service:

- (1) Prior approval by the regional administrator or designee is required.
- (2) Architectural and vehicular modifications to the home and vehicle are excluded if they are of general utility without direct medical or remedial benefit to the individual, such as floor covering (e.g., carpeting, linoleum, tile, hard wood flooring, decking), roof repair, central air conditioning, fencing for the yard, etc.
- (3) Architectural modifications cannot add to the square footage of the home.
- (4) DDD will require evidence that you accessed your full benefits through medicaid, private insurance and the division of vocational rehabilitation (DVR) before authorizing this service.
- (5) Architectural and vehicular modifications must be the most cost effective modification based upon a comparison of contractor bids as determined by DDD.
- (6) Architectural and vehicular modifications will be prorated by the number of other members in the household who use these modifications.
- (7) The need for architectural and vehicular modifications must be identified in your ISP and, in combination with other IFS services, cannot exceed your annual IFS allocation.

NEW SECTION

WAC 388-832-0200 What are specialized medical equipment and supplies? (1) Specialized medical equipment and supplies are durable and nondurable medical equipment not available through Medicaid or the state plan which enables individuals to:

- (a) Increase their abilities to perform their activities of daily living; or
 - (b) Perceive, control or communicate with the environment in which they live.
- (2) Durable and nondurable medical equipment are defined in WAC 388-543-1000 and 388-543-2800 respectively.
- (3) Also included are items necessary for life support and ancillary supplies and equipment necessary to the proper functioning of the equipment and supplies described in subsection (1) above.

NEW SECTION

WAC 388-832-0205 Who are qualified providers of specialized medical equipment and supplies? The provider of specialized medical equipment and supplies must be a medical equipment supplier contracted with DDD (or a parent who has a contract with DDD or the pass through contract).

NEW SECTION

WAC 388-832-0210 Are there limitations to my receipt of specialized medical equipment and supplies? The following limitations apply to your receipt of specialized medical equipment and supplies:

- (1) Specialized medical equipment and supplies require prior approval by the DDD regional administrator or designee for each authorization.
- (2) DDD reserves the right to require a second opinion by a department-selected provider.
- (3) Items reimbursed with state funds shall be in addition to any medical equipment and supplies furnished under medicaid or private insurance.
- (4) Items must be of direct medical or remedial benefit to the individual and necessary as a result of the individual's disability.
- (5) Medications, prescribed or nonprescribed, and vitamins are excluded.
- (6) The need for specialized medical equipment and supplies must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

NEW SECTION

WAC 388-832-0215 What are specialized nutrition and specialized clothing? (1) Specialized nutrition is specialized formulas or specially prepared foods for which a written recommendation has been provided by a qualified and appropriate professional and when it constitutes fifty percent or more of the person's caloric intake (e.g., licensed physician or registered dietician).

(2) Specialized clothing is clothing adapted for a physical disability, excessive wear clothing, or specialized footwear for which a written recommendation has been provided by a qualified and appropriate professional (e.g., a podiatrist, physical therapist, or behavior specialist).

NEW SECTION

WAC 388-832-0220 How do I pay for specialized nutrition and specialized clothing? Specialized nutrition and specialized clothing can be a reimbursable expense through the parent family support contract and the pass through contract.

NEW SECTION

WAC 388-832-0225 Are there limits for specialized nutrition and specialized clothing? (1) The need for specialized nutrition and specialized clothing must be identified

in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

(2) Prior approval by regional administrator or designee is required.

NEW SECTION

WAC 388-832-0235 What are co-pays for medical and therapeutic services? Co-pays for medical and therapeutic services are for disability related services you may have received that were not covered by your private insurance or medicaid.

NEW SECTION

WAC 388-832-0240 How do I pay for medical and therapeutic co-pays? Medical and therapeutic co-pays can be a reimbursable expense through the parent family support contract and the pass through contract.

NEW SECTION

WAC 388-832-0245 Are there limits to medical and therapeutic co-pays? (1) Medical and therapeutic co-pays must be identified as a need in your ISP and, in combination with other IFS services, cannot exceed your IFS program allocation.

(2) The co-pays must be for your disability related medical or therapeutic needs.

(3) Prescribed or nonprescribed vitamins and supplements are excluded.

(4) Prior approval by regional administrator or designee is required.

NEW SECTION

WAC 388-832-0250 What are transportation services? Transportation services are reimbursements to a provider when the transportation is required and specified in the individual support plan. This service is available for all IFS program services if the cost and responsibility for transportation is not already included in your provider's contract and payment.

(1) Transportation provides you access to IFS program services specified by your individual support plan.

(2) Whenever possible you must use family, neighbors, friends, or community agencies that can provide this service without charge.

NEW SECTION

WAC 388-832-0255 Who is a qualified provider for transportation services? (1) The provider of transportation services can be an individual or agency contracted with DDD.

(2) Transportation services can be a reimbursable expense through the parent family support contract.

NEW SECTION

WAC 388-832-0260 Are there limitations to the transportation services I can receive? The following limitations apply to transportation services:

(1) Transportation to/from medical or medically related appointments is a Medicaid transportation service and is to be considered and used first.

(2) Transportation is offered in addition to medical transportation but cannot replace Medicaid transportation services.

(3) Transportation is limited to travel to and from an IFS program service.

(4) Transportation does not include the purchase of a bus pass.

(5) Reimbursement for provider mileage requires prior approval by DDD and is paid according to contract.

(6) This service does not cover the purchase or lease of vehicles.

(7) Reimbursement for provider travel time is not included in this service.

(8) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

(9) You are not eligible for transportation services if the cost and responsibility for transportation is already included in your provider's contract and payment.

(10) Transportation services require prior approval by the DDD regional administrator or designee.

(11) Per diem costs may be reimbursed with prior approval from DDD regional administrator or designee to access medical services if over one hundred fifty miles one way for client receiving medical services and one family member.

(12) Air ambulance costs due to an emergency may be reimbursed after insurance, deductibles, Medicaid and other resources have been exhausted not to exceed your annual IFS allocation.

(13) The need for transportation services must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

NEW SECTION

WAC 388-832-0265 What is training and counseling? Training and counseling is professional assistance provided to families to better meet the specific needs of the individual outlined in their ISP including:

(1) Health and medication monitoring;

(2) Positioning and transfer;

(3) Augmentative communication systems; and

(4) Family counseling.

NEW SECTION

WAC 388-832-0270 Who is a qualified provider for training and counseling? To provide training and counseling, a provider must be one of the following licensed, registered or certified professionals and be contracted with DDD for the service specified in the individual support plan:

(1) Audiologist;

(2) Licensed practical nurse;

- (3) Marriage and family therapist;
- (4) Mental health counselor;
- (5) Occupational therapist;
- (6) Physical therapist;
- (7) Registered nurse;
- (8) Sex offender treatment provider;
- (9) Speech/language pathologist;
- (10) Social worker;
- (11) Psychologist;
- (12) Certified American sign language instructor;
- (13) Nutritionist;
- (14) Registered counselor; or
- (15) Certified dietician.

NEW SECTION

WAC 388-832-0275 Are there limitations to the training and counseling I can receive? (1) Expenses to the family for room and board or attendance, including registration fees for conferences are excluded as a service under family counseling and training.

(2) The need for training and counseling must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

(3) Prior approval by regional administrator or designee is required.

NEW SECTION**WAC 388-832-0280 What is behavior management?**

Behavior management is the development and implementation of programs designed to support the client using positive behavioral techniques. Behavior management programs help the client decrease aggressive, destructive, sexually inappropriate or other behaviors that compromises the client's ability to remain in the family home, and develop strategies for effectively relating to caregivers and other people in the client's life.

NEW SECTION

WAC 388-832-0285 Who is a qualified provider of behavior management? The provider of behavior management and consultation must be one of the following professionals contracted with DDD and duly licensed, registered or certified to provide this service:

- (1) Marriage and family therapist;
- (2) Mental health counselor;
- (3) Psychologist;
- (4) Sex offender treatment provider;
- (5) Social worker;
- (6) Registered nurse (RN) or licensed practical nurse (LPN);
- (7) Psychiatrist;
- (8) Psychiatric advanced registered nurse practitioner (ARNP);
- (9) Physician assistant working under the supervision of a psychiatrist;
- (10) Registered counselor; or
- (11) Polygrapher.

NEW SECTION

WAC 388-832-0290 Are there limits to behavior management? The following limits apply to your receipt of behavior management:

(1) DDD and the treating professional will determine the need and amount of service you will receive.

(2) DDD may require a second opinion from a DDD-selected provider.

(3) Only scientifically proven, nonexperimental methods may be utilized.

(4) Providers may not use methods that cause pain, threats, isolation or locked settings.

(5) The need for behavior management must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

(6) Psychological testing is not allowed.

(7) Behavior management services require prior approval by the regional administrator or designee.

NEW SECTION

WAC 388-832-0300 What is parent/sibling education? Parent/sibling education is class training for parents and siblings who have a family member with a developmental disability offering relevant topics. Examples of topics could be coping with family stress, addressing your child's behavior, managing the family's daily schedule or advocating for your child.

NEW SECTION

WAC 388-832-0305 Who are qualified providers for parent/sibling education? (1) The provider of parent/sibling education must be one of the following licensed, registered or certified professionals and be contracted with DDD for the service specified in the ISP:

- (a) Audiologist;
- (b) Licensed practical nurse;
- (c) Marriage and family therapist;
- (d) Mental health counselor;
- (e) Occupational therapist;
- (f) Physical therapist;
- (g) Registered nurse;
- (h) Sex offender treatment provider;
- (i) Speech/language pathologist;
- (j) Social worker;
- (k) Psychologist;
- (l) Certified American sign language instructor;
- (m) Nutritionist;
- (n) Registered counselor; or
- (o) Certified dietician.

(2) Along with these professional providers, the Arc, Parent to Parent, PAVE and Families Together may be utilized for parent/sibling education.

NEW SECTION

WAC 388-832-0308 How is parent/sibling education paid? Parent/sibling education may be a reimbursable

expense through the parent family support contract, the pass through contract or directly to the contracted provider.

NEW SECTION

WAC 388-832-0310 Are there limitations to parent/sibling education? (1) Parent/sibling education does not include conference fees or lodging.

(2) Viewing of VHS or DVD at home by yourself does not meet the definition of parent or sibling education.

(3) The need for parent/sibling education must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

(4) Prior approval by regional administrator or designee is required.

NEW SECTION

WAC 388-832-0315 What are recreational opportunities? (1) Recreational opportunities are activities that may be available to children and adults with a developmental disability such as summer camps, YMCA activities, day trips or typical activities available in your community.

(2) Recreational opportunities may include memberships in civic groups, clubs, crafting classes, or classes outside of K-12 school curriculum or sport activities.

NEW SECTION

WAC 388-832-0320 How are recreational opportunities paid for? Recreational opportunities may be a reimbursable expense through the parent family support contract and the pass through contract.

NEW SECTION

WAC 388-832-0325 Are there limitations to recreation opportunities? (1) The recreational opportunities must occur in your community or the bordering states addressed in WAC 388-832-0331.

(2) The need for recreation opportunities must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

(3) DDD does not pay for recreational opportunities that may pose a risk to individuals with disabilities or the community at large.

(4) Prior approval by regional administrator or designee is required.

NEW SECTION

WAC 388-832-0330 Does my family have a choice of IFS program services? In collaboration with your case manager and based upon your assessed need, you may choose the services available with this program.

NEW SECTION

WAC 388-832-0331 May I receive IFS program services out of state? You may receive IFS program services in a recognized out-of-state bordering city on the same basis as

in-state services. The only recognized bordering cities are: Coeur d'Alene, Moscow, Sandpoint, Priest River and Lewiston Idaho; and Portland, The Dalles, Hermiston, Hood River, Rainier, Milton-Freewater, and Astoria Oregon.

NEW SECTION

WAC 388-832-0332 Will I have a choice of provider? You may choose a qualified individual, agency or licensed provider within the guidelines described in WAC 388-825-300 through 388-825-400. These WACs describe:

(1) Qualifications for individuals and agencies providing DDD services in the client's residence or the provider's residence or other settings; and

(2) Conditions under which DDD will pay for the services of an individual provider or a home care agency provider or other provider.

NEW SECTION

WAC 388-832-0333 What restrictions apply to the IFS program services? The following restrictions apply to the IFS program services:

(1) IFS program services are authorized only after you have accessed what is available to you under medicaid, including medicaid personal care, and any other private health insurance plan, school, or child development services.

(2) All IFS program service payments must be agreed to by DDD and you in your ISP.

(3) DDD will contract directly with a service provider or parent for the reimbursement of goods or services purchased by the family member.

(4) DDD will not pay for treatment determined by DSHS/MAA or private insurance to be experimental.

(5) Your choice of qualified providers and services may be limited to the most cost effective option that meets your assessed need.

(6) The IFS program will not pay for services provided after the death of the eligible client. Payment may occur after the date of death, but not the service.

(7) DDD's authorization period will start when you agree to be in the IFS program and have given written or verbal approval for your ISP. The period will last up to one year and may be renewed if you continue to need and utilize services. If you have not utilized the services within one year period you will be terminated from this program.

(8) IFS program will not pay for psychological evaluations or testing, or DNA testing.

(9) Supplies/materials related to community integration or recreational activities are the responsibility of the family.

ONE TIME AWARDS

NEW SECTION

WAC 388-832-0335 What is a one-time award? One time awards are payments to individuals and families who meet the IFS program eligibility requirements and have a one time unmet need not covered by any other sources for which they are eligible. One time awards can only be used for architectural/vehicular modifications, or specialized equipment.

NEW SECTION

WAC 388-832-0340 Who is eligible for a one-time award? You are eligible to be considered for a one-time award if:

- (1) You are not currently authorized for IFS program services in your ISP.
- (2) You meet the eligibility for the IFS program.
- (3) The need is critical to the health or safety of you or your caregiver and you and your family have no other resource to meet the need or your resources do not cover all of the expense.

NEW SECTION

WAC 388-832-0345 Are there limitations to one-time awards? (1) One time awards are limited to architectural/vehicular modifications or specialized equipment.

- (2) One time awards cannot exceed six thousand dollars in a twenty-four month period.
- (3) One time awards must be approved by the director of DDD or designee.
- (4) Eligibility for a one-time award does not guarantee approval and authorization of the service by DDD. Services are based on availability of funding.
- (5) One time awards will be prorated by the number of other members in the household who use these modifications or specialized equipment.

NEW SECTION

WAC 388-832-0350 How do I apply for the one-time award? If you have a need for a one-time award, you can make the request to your case manager.

NEW SECTION

WAC 388-832-0353 Do I need to have a DDD assessment before I receive a one-time award? You need to have a DDD assessment prior to receiving a one-time award.

EMERGENCYNEW SECTION

WAC 388-832-0355 What is an emergency service? Emergency services are respite care, behavior management or nursing services in response to a single incident, situation or short term crisis.

NEW SECTION

WAC 388-832-0360 What situations qualify for emergency services? The following situations qualify as an emergency:

- (1) You lose your family caregiver due to caregiver hospitalization, or death;
- (2) There are changes in your caregiver's mental or physical status resulting in your family caregiver's inability to perform effectively for you; or
- (3) There are significant changes in your emotional or physical condition that require emergency services.

NEW SECTION

WAC 388-832-0365 Who is a qualified provider of emergency services? The provider of the service you need to meet your emergency must meet the provider qualifications required to contract for that specific service per the following:

- (1) Respite per WAC 388-832-0155.
- (2) Behavior Management per WAC 388-832-0285.
- (3) Nursing per WAC 388-845-1705.

NEW SECTION

WAC 388-832-0366 What limitations apply to emergency services? (1) Emergency services may be granted to individuals and families who are on the IFS wait list and have an emergent need.

- (2) Funds are provided for a limited period not to exceed sixty days.
- (3) All requests are reviewed and approved or denied by the regional administrator or designee.

NEW SECTION

WAC 388-832-0367 What if the client or family situation requires more than sixty days of emergency service?

- (1) Emergency services are limited to sixty days.
- (2) DDD will conduct an administrative review of other DDD services to determine if the need can be met through other services.

NEW SECTION

WAC 388-832-0369 Do I need to have a DDD assessment before I receive an emergency service? You do not need to have a DDD assessment prior to receiving an emergency service; however the regional manager/designee may request a DDD assessment for a client at any time.

GRANTSNEW SECTION

WAC 388-832-0370 What are the IFS community service grants? Community service grants are grants to agencies or individuals funded by the IFS program to promote community oriented projects that benefit families. Community service grants may fund long-term or short-term projects that benefit children and/or adults.

NEW SECTION

WAC 388-832-0375 How does a proposed project qualify for funding? To qualify for funding, a proposed project must:

- (1) Address one or more of the following topics:
 - (a) Provider support and development;
 - (b) Parent helping parent; or
 - (c) Community resource development for inclusion of all.
- (2) Meet most of the following goals:

- (a) Enable families to use generic resources which are integrated activities and/or resources community members typically have access to;
- (b) Reflect geographic, cultural and other local differences;
- (c) Support families in a variety of non crisis-oriented ways;
- (d) Prioritize support for unserved families;
- (e) Address the diverse needs of Native Americans, communities of color and limited or non-English speaking groups;
- (f) Be family focused;
- (g) Increase inclusion of persons with developmental disabilities;
- (h) Benefit families who have children or adults eligible for services from DDD and who do not receive other DDD paid services; and
- (i) Promote community collaboration, joint funding, planning and decision making.

HEARINGS AND APPEALS

NEW SECTION

WAC 388-832-0460 How will DDD notify me on their decisions? Your case resource manager will call you and send a written planned action notice per WAC 388-825-100.

NEW SECTION

WAC 388-832-0470 What are my appeal rights under the individual family services program? You have the appeal rights described in WAC 388-825-100 through 388-825-165.

Individual and Family Services Assessment

NEW SECTION

WAC 388-828-9000 What is the individual and family services assessment? The individual and family services assessment is an algorithm in the DDD assessment that determines an award amount that you may receive if DDD has authorized you to receive individual and family services per chapter 388-832 WAC.

NEW SECTION

WAC 388-828-9020 What is the purpose of the individual and family services assessment? The purpose of the individual and family services assessment is to determine your individual and family services level and score using your assessed support levels from:

- (1) The DDD protective supervision acuity scale (See WAC 388-828-5000 to WAC 388-828-5100);
- (2) The DDD caregiver status acuity scale (See WAC 388-828-5120 to WAC 388-828-5360);
- (3) The DDD behavioral acuity scale; (See WAC 388-828-5500 to WAC 388-828-5640)
- (4) The DDD medical acuity scale; (See WAC 388-828-5660 to WAC 388-828-5700); and
- (5) The DDD activities of daily living (ADL) acuity scale (See WAC 388-828-5380 to WAC 388-828-5480)

NEW SECTION

WAC 388-828-9040 How does DDD determine your individual and family services level? (1) DDD determines your individual and family services level using the following table:

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
0	None	1	None	1
0	None	1	Low	1
0	None	1	Medium	1
0	None	1	High	2
0	None	2 or 3	None	1
0	None	2 or 3	Low	1
0	None	2 or 3	Medium	2
0	None	2 or 3	High	2
0	Low	1	None	1
0	Low	1	Low	1
0	Low	1	Medium	1
0	Low	1	High	2
0	Low	2 or 3	None	1
0	Low	2 or 3	Low	1
0	Low	2 or 3	Medium	2
0	Low	2 or 3	High	2
0	Medium	1	None	1

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
0	Medium	1	Low	1
0	Medium	1	Medium	1
0	Medium	1	High	2
0	Medium	2 or 3	None	1
0	Medium	2 or 3	Low	1
0	Medium	2 or 3	Medium	2
0	Medium	2 or 3	High	2
0	High	1	None	1
0	High	1	Low	1
0	High	1	Medium	2
0	High	1	High	2
0	High	2 or 3	None	2
0	High	2 or 3	Low	2
0	High	2 or 3	Medium	2
0	High	2 or 3	High	3
0	Immediate	1	None	1
0	Immediate	1	Low	1
0	Immediate	1	Medium	2
0	Immediate	1	High	2
0	Immediate	2 or 3	None	2
0	Immediate	2 or 3	Low	2
0	Immediate	2 or 3	Medium	2
0	Immediate	2 or 3	High	3
1	None	1	None	1
1	None	1	Low	1
1	None	1	Medium	1
1	None	1	High	2
1	None	2 or 3	None	1
1	None	2 or 3	Low	1
1	None	2 or 3	Medium	2
1	None	2 or 3	High	3
1	Low	1	None	1
1	Low	1	Low	1
1	Low	1	Medium	1
1	Low	1	High	2
1	Low	2 or 3	None	1
1	Low	2 or 3	Low	1
1	Low	2 or 3	Medium	2
1	Low	2 or 3	High	3
1	Medium	1	None	1
1	Medium	1	Low	1
1	Medium	1	Medium	2
1	Medium	1	High	3
1	Medium	2 or 3	None	1
1	Medium	2 or 3	Low	2

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
1	Medium	2 or 3	Medium	2
1	Medium	2 or 3	High	3
1	High	1	None	2
1	High	1	Low	2
1	High	1	Medium	2
1	High	1	High	3
1	High	2 or 3	None	2
1	High	2 or 3	Low	2
1	High	2 or 3	Medium	3
1	High	2 or 3	High	4
1	Immediate	1	None	2
1	Immediate	1	Low	2
1	Immediate	1	Medium	2
1	Immediate	1	High	3
1	Immediate	2 or 3	None	2
1	Immediate	2 or 3	Low	2
1	Immediate	2 or 3	Medium	3
1	Immediate	2 or 3	High	4
2 or 3	None	1	None	1
2 or 3	None	1	Low	1
2 or 3	None	1	Medium	2
2 or 3	None	1	High	3
2 or 3	None	2 or 3	None	2
2 or 3	None	2 or 3	Low	2
2 or 3	None	2 or 3	Medium	2
2 or 3	None	2 or 3	High	4
2 or 3	Low	1	None	1
2 or 3	Low	1	Low	1
2 or 3	Low	1	Medium	2
2 or 3	Low	1	High	3
2 or 3	Low	2 or 3	None	2
2 or 3	Low	2 or 3	Low	2
2 or 3	Low	2 or 3	Medium	2
2 or 3	Low	2 or 3	High	4
2 or 3	Medium	1	None	2
2 or 3	Medium	1	Low	2
2 or 3	Medium	1	Medium	2
2 or 3	Medium	1	High	3
2 or 3	Medium	2 or 3	None	2
2 or 3	Medium	2 or 3	Low	2
2 or 3	Medium	2 or 3	Medium	3
2 or 3	Medium	2 or 3	High	4
2 or 3	High	1	None	2
2 or 3	High	1	Low	2
2 or 3	High	1	Medium	2

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
2 or 3	High	1	High	3
2 or 3	High	2 or 3	None	2
2 or 3	High	2 or 3	Low	2
2 or 3	High	2 or 3	Medium	3
2 or 3	High	2 or 3	High	4
2 or 3	Immediate	1	None	2
2 or 3	Immediate	1	Low	2
2 or 3	Immediate	1	Medium	2
2 or 3	Immediate	1	High	3
2 or 3	Immediate	2 or 3	None	2
2 or 3	Immediate	2 or 3	Low	2
2 or 3	Immediate	2 or 3	Medium	3
2 or 3	Immediate	2 or 3	High	4
4	None	1	None	2
4	None	1	Low	2
4	None	1	Medium	2
4	None	1	High	3
4	None	2 or 3	None	2
4	None	2 or 3	Low	2
4	None	2 or 3	Medium	3
4	None	2 or 3	High	4
4	Low	1	None	2
4	Low	1	Low	2
4	Low	1	Medium	2
4	Low	1	High	3
4	Low	2 or 3	None	2
4	Low	2 or 3	Low	2
4	Low	2 or 3	Medium	3
4	Low	2 or 3	High	4
4	Medium	1	None	2
4	Medium	1	Low	2
4	Medium	1	Medium	3
4	Medium	1	High	3
4	Medium	2 or 3	None	2
4	Medium	2 or 3	Low	3
4	Medium	2 or 3	Medium	3
4	Medium	2 or 3	High	4
4	High	1	None	2
4	High	1	Low	2
4	High	1	Medium	3
4	High	1	High	3
4	High	2 or 3	None	2
4	High	2 or 3	Low	3
4	High	2 or 3	Medium	4
4	High	2 or 3	High	4

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
4	Immediate	1	None	2
4	Immediate	1	Low	2
4	Immediate	1	Medium	3
4	Immediate	1	High	3
4	Immediate	2 or 3	None	2
4	Immediate	2 or 3	Low	3
4	Immediate	2 or 3	Medium	4
4	Immediate	2 or 3	High	4
5	None	1	None	2
5	None	1	Low	2
5	None	1	Medium	3
5	None	1	High	4
5	None	2 or 3	None	3
5	None	2 or 3	Low	3
5	None	2 or 3	Medium	4
5	None	2 or 3	High	5
5	Low	1	None	2
5	Low	1	Low	2
5	Low	1	Medium	3
5	Low	1	High	4
5	Low	2 or 3	None	3
5	Low	2 or 3	Low	3
5	Low	2 or 3	Medium	4
5	Low	2 or 3	High	5
5	Medium	1	None	2
5	Medium	1	Low	2
5	Medium	1	Medium	3
5	Medium	1	High	4
5	Medium	2 or 3	None	3
5	Medium	2 or 3	Low	3
5	Medium	2 or 3	Medium	4
5	Medium	2 or 3	High	5
5	High	1	None	2
5	High	1	Low	2
5	High	1	Medium	3
5	High	1	High	4
5	High	2 or 3	None	3
5	High	2 or 3	Low	3
5	High	2 or 3	Medium	4
5	High	2 or 3	High	5
5	Immediate	1	None	2
5	Immediate	1	Low	2
5	Immediate	1	Medium	3
5	Immediate	1	High	4
5	Immediate	2 or 3	None	3

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
5	Immediate	2 or 3	Low	3
5	Immediate	2 or 3	Medium	4
5	Immediate	2 or 3	High	5
6	None	1	None	2
6	None	1	Low	3
6	None	1	Medium	3
6	None	1	High	4
6	None	2 or 3	None	3
6	None	2 or 3	Low	3
6	None	2 or 3	Medium	4
6	None	2 or 3	High	5
6	Low	1	None	2
6	Low	1	Low	3
6	Low	1	Medium	3
6	Low	1	High	4
6	Low	2 or 3	None	3
6	Low	2 or 3	Low	3
6	Low	2 or 3	Medium	4
6	Low	2 or 3	High	5
6	Medium	1	None	3
6	Medium	1	Low	3
6	Medium	1	Medium	3
6	Medium	1	High	4
6	Medium	2 or 3	None	3
6	Medium	2 or 3	Low	4
6	Medium	2 or 3	Medium	4
6	Medium	2 or 3	High	5
6	High	1	None	3
6	High	1	Low	3
6	High	1	Medium	4
6	High	1	High	4
6	High	2 or 3	None	4
6	High	2 or 3	Low	4
6	High	2 or 3	Medium	5
6	High	2 or 3	High	5
6	Immediate	1	None	3
6	Immediate	1	Low	3
6	Immediate	1	Medium	4
6	Immediate	1	High	4
6	Immediate	2 or 3	None	4
6	Immediate	2 or 3	Low	4
6	Immediate	2 or 3	Medium	5
6	Immediate	2 or 3	High	5

(2) DDD adds one level to your individual and family services level when your individual and family services level is determined to be:

- (a) Level one, two, three, or four; and
- (b) You have a score of four for question two "Other caregiving for persons who are disabled, seriously ill, or under five" in the DDD caregiver status acuity scale. See WAC 388-828-5260.

and family services rating is determined by using the following table:

If your individual and family services level is:	Then your individual and family services support rating is:
1	0
2	240
3	336
4	432
5	528

NEW SECTION

WAC 388-828-9060 How does DDD determine your individual and family services rating? (1) Your individual

NEW SECTION

WAC 388-828-9100 How does DDD determine the number to use in the adjustment of your individual and family services support rating? DDD determines the amount of the adjustment for your individual and family services support rating using the following tables:

(1)

If your individual and family services level is 1, 2, 3, 4, or 5 and you are not eligible for Medicaid personal care	And your ADL support needs level for the SIS per WAC 388-828-5480				
	None	Low	Medium	High	
And your medical acuity level per WAC 388-828-5700	None	57	57	76	85
	Low	57	57	76	85
	Medium	57	88	122	145
	High	57	145	245	287

(2)

If your individual and family services level is 1, 2, 3, 4, or 5 and you are eligible for Medicaid personal care per chapter 388-106 WAC	And your ADL support needs level for the SIS per WAC 388-828-5480				
	None	Low	Medium	High	
And your medical acuity level per WAC 388-828-5700	None	0	0	0	0
	Low	0	0	0	0
	Medium	0	0	0	0
	High	0	0	0	0

Example: If your individual and family service level is 3 and you are not eligible for Medicaid personal care services and your ADL support needs level is "low" and your medical acuity level is "medium," the amount of your adjustment is 88.

NEW SECTION

WAC 388-828-9140 How does DDD determine the amount of your individual and family service award? DDD uses the following table to determine the amount of your individual and family services award:

If your individual and family services score is:	Then the amount of your award is up to:
0 to 60	No Award
61 to 240	\$2000
241 to 336	\$3000
337 to 527	\$4000
528 or more	\$6000

NEW SECTION

WAC 388-828-9120 How does DDD determine your individual and family services score? DDD adds your individual and family support rating from WAC 388-828-9060 to the adjustment amount in WAC 388-828-9100 to determine your individual and family services score.

Example: If you are not eligible for Medicaid personal care services and your individual and family services support rating is 336 and the amount of your adjustment is 122, your individual and family services score is 458.

WSR 08-17-075
PERMANENT RULES
OLYMPIC REGION
CLEAN AIR AGENCY

[Filed August 19, 2008, 11:49 a.m., effective September 19, 2008]

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

Purpose: The asbestos rules and associated fees have not changed since 1993. Changes in the asbestos rule will clarify several aspects of the program. The requirements will be less restrictive of residential projects. Changes in the fees will better cover the program expenses.

Citation of Existing Rules Affected by this Order: Amending Olympic Region Clean Air Agency Regulations, Rules 6.3 Asbestos and 3.5 Asbestos Fees.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 08-13-088 on June 17, 2008.

Changes Other than Editing from Proposed to Adopted Version: The definition of an "asbestos project" was changed. The following sentence was added: "This term does not include the removal of less than 10 linear feet or 11 square feet of asbestos containing material." The fee category for those projects was deleted as a part of this rule revision. This change was necessary to clarify that a permit was not required for that category.

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: August 13, 2008.

Richard A. Stedman
 Executive Director

AMENDED SECTION

RULE 3.5 ASBESTOS FEES

Any (~~application~~) permit required by Rule 6.3.2(a) shall be considered incomplete until all the information required by Rule 6.3.2(a) is received by the Control Officer, or designee, and accompanied by the appropriate, nonrefundable fee. The (~~advance notification period and~~) appropriate fee shall be determined by Table 3.5a.

Table 3.5a Asbestos (~~Notification Period~~) and Demolition Fees

<u>((Project Type))</u> <u>Category</u>	<u>((Amount of material))</u> <u>Type of Project</u>	<u>((Advanced Notifica- tion Period))</u>	<u>Application Fee</u>	<u>((Forms Required))</u>
DEMOLITION PROJECTS				
Demolition	((AH)) Residential	((10 working days))	\$((2))35.00	((1-Application to per- form a demolition 2-Certification that no known asbestos is present))
<u>Demolition</u>	<u>Commercial</u>		<u>\$60.00</u>	
<u>Emergency Demolition</u>	<u>All projects that nor- mally require a 10 work- ing day notification period</u>		<u>\$50.00 plus normal notification fee</u>	

<u>Category</u>	<u>Amount of material</u>		<u>Application Fee</u>	
ASBESTOS PROJECTS				
Asbestos ((Project)) <u>removed by owner of owner occupied resi- dence</u>	((Residential (owner- occupied))) All	((Prior notification- required))	\$((25))30.00	((Application to perform- an asbestos project))
((Asbestos Project))	((<10 linear ft <11 square ft))	((Prior notification- required))	(((\$25.00))	((Application to perform- an asbestos project))
<u>1 - Asbestos Project</u>	<u>10-259 linear ft 11-159 square ft</u>	((10 working days))	<u>\$1((0))50.00</u>	((Application to perform- an asbestos project))
<u>2 - Asbestos Project</u>	<u>260-999 linear ft 160-4,999 square ft</u>	((10 working days))	<u>\$325((0)).00</u>	((Application to perform- asbestos project))

<u>Category</u>	<u>Amount of material</u>		<u>Application Fee</u>	
<u>3 - Asbestos Project</u>	1,000-9,999 linear ft 5,000-49,999 square ft	((10 working days))	\$50((0)).00	((Application to perform asbestos project))
<u>4 - Asbestos Project</u>	10,000 + linear ft 50,000 + square ft	((10 working days))	\$1,((0))300.00	((Application to perform an asbestos project))
Annual Asbestos Project	Yearly limit of 260 linear ft on pipes 160 square ft other components	((Prior notification required))	\$500.00	((Application to perform annually))
Amendments	All projects	((Prior notification required))	1st and 2nd amendment at no charge \$25.00 charge for 3rd and ((amendment & after)) subsequent amendments	((Amended copy of approved application))
Emergency	All projects that normally require a 10 working day notification period	((Prior notification required))	\$50.00 plus normal notification fee	((Emergency waiver request letter submitted by property owner.))

AMENDED SECTION

RULE 6.3 ASBESTOS

The Board of Directors of the Olympic Region Clean Air Agency has found that the use, production, and emission of air contaminants into the atmosphere in the ORCAA region poses a threat to the public health, safety, and welfare of the citizens of the region and causes degradation of the environment. Therefore the Board, in order to control the emission of toxic air pollutants and to provide uniform enforcement of air pollution control in its jurisdiction and to carry out the mandates and purposes of the Washington Clean Air Act, the Federal Clean Air Act, and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) (40 CFR Part 61), declares the necessity of the adoption of these rules pertaining to air contaminants.

Rule 6.3.1 Definitions

When used in this Rule the following definitions shall apply:

"Adequately Wet" means sufficiently mixed, saturated, penetrated, or coated with a continuous fine mist of water or an aqueous solution to prevent visible emissions.

"AHERA Building Inspector" means a person who has successfully completed the training requirements for a building inspector established by EPA Asbestos Model Accreditation Plan: Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E.I.B.3) and whose certification is current.

"Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite.

"Asbestos Containing Material (ACM)" means any material containing at least one percent (1%) asbestos as determined by polarized light microscopy using the Interim Method of the Determination of Asbestos in Bulk Samples

contained in Appendix A of Subpart F in 40 CFR Part 763. Asbestos containing waste material includes asbestos containing material that has been disturbed or deteriorated in a way that is no longer an integral part of the structure or component, asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos containing material collected for disposal, asbestos contaminated waste, debris, containers, bags, protective clothing, or HEPA filters. Asbestos containing waste material does not include samples of asbestos containing material taken for testing or enforcement purposes. This term does not include asbestos containing roofing material, regardless of asbestos content, when all of the following conditions are met:

(a) The asbestos containing roofing material is in good condition and is not peeling, cracking, or crumbling; and

(b) The binder is petroleum based, the asbestos fibers are suspended in that base, and the individual fibers are still encapsulated; and

(c) The binder still exhibits enough plasticity to prevent the release of asbestos fibers in the process of removing it; and

(d) The building, vessel, or structure containing the asbestos containing roofing material will not be demolished by burning or mechanical renovation/demolition methods that may release asbestos fibers.

"Asbestos Encapsulation" means the application of an encapsulant to the asbestos materials to control the release of asbestos fibers into the air.

"Asbestos Project" means the disturbance, destruction, salvage, or disposal of any asbestos material. ((construction, demolition, repair, remodeling, maintenance, or renovation of any public or private building(s), vessel, structure(s), or component(s) involving the demolition, removal, encapsulation, salvage, disposal, or disturbance of any asbestos containing material.)) This term includes the removal and disposal of asbestos containing waste material from manufactur-

ing operations that combine asbestos containing material with any other material(s) to produce a product and the removal and disposal of stored asbestos containing material or asbestos containing waste material. This term does not include the removal of less than 10 linear feet or 11 square feet of asbestos containing material. Nor ~~((#))~~ does ~~((not))~~ it include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other nonasbestos materials to seal or fill exposed areas where asbestos fibers may be released.

"**Asbestos Survey**" means an inspection using the procedures contained in 40 CFR 763.86 and 40 CFR 763.87, or an alternate method that has received prior written approval from the Control Officer, or designee, to determine whether materials or structures to be worked on, removed, disturbed, or demolished, contain asbestos. In residential dwellings, asbestos samples may be taken by the resident owner of the dwelling.

"**Certified Asbestos Worker/Supervisor**" means a person who is certified as required by the Washington State Department of Labor and Industries under WAC 296-65-010, WAC 296-65-012, and WAC 296-65-030 to undertake an asbestos project or, for federal employees working in a federal facility, trained in an equally effective program approved by the United States Environmental Protection Agency.

"**Collected for Disposal**" means asbestos containing material properly sealed in a leak tight, labeled container while adequately wet.

"**Component**" means any equipment, pipe, structural member, or other item covered, coated, or manufactured from asbestos containing material.

"**Controlled Area**" means an area to which only certified asbestos workers, or other persons authorized by the Washington Industrial Safety and Health Act, have access. For residential dwellings, the controlled area is the interior of the dwelling, garage, or fenced area that is secured, and where warning signs are posted accordingly.

"**Demolition**" means the wrecking, dismantling, fire department training, or removal of any load supporting structural member that makes that portion of the structure unable. ~~((on, or burning of, any building, vessel, structure, or portion thereof. For residential dwellings, a demolition means the wrecking, dismantling, or removal of any load bearing structural member by the use of heavy equipment (such as a backhoe) or the burning of the building thereby rendering it as permanently uninhabitable, that portion of the building being demolished.))~~ Dismantling an owner occupied residential dwelling, or portion thereof, by hand does not constitute a demolition.

"**Emergency (~~Renovation Operation~~)**" means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by nonroutine failures of equipment.

"**Facility**" means any institutional, commercial, public, industrial, or residential structure, installation, building, (including any building containing condominiums or individual dwelling units operated as a residential cooperative) any vessel; ship; and any active or inactive waste disposal site.

For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling, is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use of function.

"**Fugitive Source**" means any sources of emissions not controlled by an air pollution control device.

"**HEPA Filter**" means a High Efficiency Particulate Air filter found in respirators and vacuum systems capable of filtering 0.3 micrometer mean aerodynamic diameter particles with 99.97% efficiency.

"**Leak Tight Container**" means a dust tight container, at least 6 mil thick, that encloses the asbestos containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and polyethylene plastic.

"**Local Exhaust Ventilation and Collection System**" means a system as described in Appendix J of EPA 560/565-024 (Guidance for Controlling Asbestos Containing Materials in Buildings).

"**Owner or Operator**" means any person who owns, leases, operates, controls, or is responsible for activities at an asbestos project site, or an asbestos project operation, or both.

"**Owner Occupied Residential Dwelling**" means any ~~((nonmultiple unit building containing space for uses such as living, sleeping, preparation of food, and eating that is owned, used, occupied, or intended or designed to be occupied by one family as their domicile.))~~ single family housing unit which is permanently or seasonally occupied by the owner of the unit both prior to and after renovation or demolition. This term includes houses, mobile homes, trailers, houseboats, and houses with a 'mother-in-law apartment' or 'guest rooms.' This term does not include structures that are to be demolished or renovated as part of a commercial or public project. Nor does this term include any mixed-use building, structure, or installation that contains a residential unit, or any building that is leased, ~~((or))~~ used as a rental ~~((or))~~, or for commercial purposes.

"**Renovation**" means the altering of a structure in a way that removes structural supports and/or other framing, but does not render the building uninhabitable.

"**Visible Asbestos Emissions**" means any asbestos containing materials that are visually detectable without the aid of instruments. ~~((This term does not include condensed uncombined water vapor.))~~

"**Waste Generator**" means any owner or operator of a source whose act or process produces asbestos containing waste material.

"**Waste Shipment Record**" means the shipping document required to be originated and signed by the owner or operator, used to track and substantiate the disposition of asbestos containing waste material.

"**Work Day**" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

Rule 6.3.2 Notification Requirement (~~and Fees~~)

(a) Application Requirements - Applicability. It shall be unlawful for any person to cause or allow work on an asbes-

tos (~~project~~) or demolition project unless the owner or operator has obtained written approval from the Control Officer, or designee, as follows:

(1) A written "~~(Application to Perform an Asbestos Project)~~ Asbestos Permit" or a "~~(n)~~" "~~(Application to Perform a)~~ Demolition Permit" shall be submitted on Agency provided forms by the owner or operator for approval by the Control Officer, or designee, before any work on an asbestos project or demolition begins. It shall be unlawful for any person to cause or allow any false or misrepresenting information on either form.

(2) The written ~~((application))~~ permit for asbestos removal and/or demolition shall be accompanied by the appropriate ~~((application))~~ fee, found in Table 3.5(a) ~~((and a certification that an asbestos survey has been conducted))~~.

(3) The written ~~((application))~~ permit for a demolition shall also include a certification that there is no known asbestos containing material remaining in the area of the demolition.

(4) The duration of an asbestos project or demolition shall have a starting and completion date that is commensurate with the amount of work involved and shall not exceed one (1) year beyond the original starting date ~~((and shall have a starting and completion date that is commensurate with the amount of work involved))~~.

(5) A copy of the approved ~~((application))~~ permit and asbestos survey and all subsequent amendments shall be available for inspection at the asbestos project or demolition site.

(6) ~~((Upon completion of an asbestos project or demolition, a written "Notice of Completion" shall be filed with the Control Officer.))~~

(7) Submission of an "~~(Application to Perform an)~~ Asbestos (Project) Permit" shall be prima facie evidence that the asbestos project involves asbestos containing material.

(8) ~~((Application))~~ Permits for multiple asbestos projects may be filed on one form, if the following criteria are met:

(i) The work will be performed continuously by the same contractor; and

(ii) The structures are in a contiguous group and the property owner has ~~((all have))~~ the same original post office box or mailing address; and

(iii) All asbestos, renovation or demolition projects are bid as a group under the same contract; ~~((The asbestos project specifications regarding location and dates are provided in detail;))~~ and

(iv) ~~((All asbestos projects are bid as a group under the same contract.))~~ The project specifications regarding location and dates are provided in detail in the form of a work plan. The work plan submitted must include:

1. a map of the structures involved in the project;
2. the site address for each structure;
3. the amount and type of asbestos containing material in each structure (for structures with ACM);
4. the schedule for performing asbestos project and demolition work;
5. a copy of the asbestos survey for all structures that do not contain asbestos containing materials; and
6. any other information requested.

(b) ~~((Application))~~ Permit Requirements - Advance Notification Period ~~((and Fee))~~. Any ~~((application))~~ permits required by Rule 6.3.2(a) shall be considered incomplete until all the information required by Rule 6.3.2(a) is received by the Control Officer, or designee, and accompanied by the appropriate, nonrefundable fee. The ~~((advance notification period and))~~ appropriate fee shall be determined by Table 3.5(a):

(c) The notification for either an asbestos or demolition project shall be 10 working days, unless the project falls into a category below:

(1) The project is deemed an emergency.

(2) Prior Notification is required for removal and disposal of the following nonfriable asbestos containing materials: caulking, window-glazing, or roofing (being removed by mechanical means). All other asbestos project and demolition requirements remain in effect.

(3) Prior Notification is required for asbestos removal or demolitions involving owner-occupied, single-family residences.

(d) Annual ~~((Applications))~~ Permits. In addition to the ~~((application))~~ permit requirement of Rule 6.3.2(a) and 6.3.2(b), the owner or operator of a facility may file for approval by the Control Officer, or designee, an annual written ~~((application))~~ permit to conduct asbestos projects on one or more buildings, vessels, or structures at the facility during each calendar year for the purpose of scheduled maintenance or emergency repairs. The requirements of Rule 6.3.2 (a)(1) through 6.3.2 (a)(4), 6.3.2 (a)(6), and 6.3.2(b) shall not apply to asbestos projects undertaken during the calendar year at the applicable facility if all of the following conditions are met:

(1) Annual ~~((Application))~~ Permit - Restrictions.

(i) The annual written ~~((application))~~ permit shall be filed for approval by the Control Officer, or designee, before commencing work on any asbestos project to be specified in an annual ~~((application))~~ permit.

(ii) The total amount of asbestos containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this rule shall be limited to less than 260 linear feet on pipe and 160 square feet on other components.

(iii) The ~~((application))~~ permit requirements of Rules 6.3.2(a) and 6.3.2(b) shall apply to any asbestos project involving at least 260 linear feet on pipes or 160 square feet on other components for each building, vessel, or structure at the facility, including residential dwellings.

(iv) A copy of the written annual ~~((application))~~ permit shall be available for inspection at the property owner or operator's office until the end of the calendar year.

(v) Asbestos containing waste material generated from asbestos projects filed under an annual ~~((application))~~ permit may be stored for disposal at the facility if all of the following conditions are met:

(A) All asbestos containing waste material shall be treated in accordance with Rules 6.3.4 (a)(1), 6.3.4 (a)(2), and 6.3.4 (a)(3);

(B) Accumulated asbestos containing waste material collected during each calendar quarter shall be kept in a con-

trolled storage area posted with one (1) or more asbestos warning signs and accessible only to authorized persons; and

(C) All stored asbestos containing waste material shall be deposited at a waste disposal site within ninety (90) calendar days after collection for disposal unless the asbestos containing waste is handled as dangerous waste in accordance with chapter 173-303 WAC. The waste disposal site shall be operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the appropriate health department within the ((Authority's)) Agency's jurisdiction.

(2) Annual ((Application)) Permit - Reporting Requirements and Fees. Annual written ((applications)) permit required by Rule 6.3.2(c) shall be submitted by the facility owner or operator on forms provided by the Agency and filed for approval by the Control Officer, or designee, accompanied by the annual fee stated in Rule 3.5.

(3) Annual ((Application)) Permit - Quarterly Reporting Requirements. In addition to the written annual ((application)) permit requirements of Rule 6.3.2(c), the facility owner or operator shall submit quarterly written reports to the Control Officer, or designee, within fifteen (15) days after the end of each calendar quarter.

(4) Work Done Without Notification - Any work on an asbestos project, renovation, or demolition, for which notification is required, and is commenced or performed prior to obtaining approval from the Control Officer, or designee, constitutes a violation of this Rule.

(e) ((Application)) Permit Requirements – Amendments. It shall be unlawful for any person to cause or allow any deviation from information contained in a written ((application)) permit unless an amended ((application)) permit has been received and approved by the Control Officer, or designee. Amended ((application)) permits required by this rule shall be filed by the original applicant, received by the Control Officer, or designee, no later than the last filed completion date, and are limited to the following revisions:

(1) A change in the job size category because of additional asbestos containing material. In this case, the fee shall be increased accordingly and the fee shall be equal to, but not exceed, the fee amount provided for each size category specified in Rule 3.5;

(2) The asbestos project, renovation, or demolition starting or completion date, provided that the total duration of the work does not exceed one (1) calendar year beyond the original ((starting)) submission date. ~~((The commencement date of the original advance notification period shall apply with no additional waiting period required for amended applications filed in accordance with Rule 6.3.2(d) and approved by the Control Officer. If an amended application results in a job size category that requires a waiting period as specified in Rule 3.5 and the original application did not require a waiting period, the advance notification period shall commence on the approval date of the original application;))~~ If the appropriate waiting period has passed, further waiting is not required. If a waiting period is required, it shall be based on the original submission date.

(3) Name, mailing address, and telephone number of the owner or operator of the asbestos project site or operation;

(4) Waste disposal site, provided the revised waste disposal site is operated in accordance with the provisions of 40

CFR 61.154 or 40 CFR 61.155 and approved by the appropriate health department within the ((Authority's)) Agency's jurisdiction; and

~~(5) ((Method of removal or compliance procedures, provided the revised plan meets the asbestos emission control and disposal requirements of Rule 6.3.3 and 6.3.4;~~

(6) Description, size (total square feet or number of floors), and approximate age of the building, vessel, or structure at the original address or location; and))

(7) Any other information requested by the Control Officer, or designee.

(f) Opportunity for Amendment - In no case shall an amendment be accepted and approved by the Agency if it is filed after the last completion date on record. In the case of additional work to be performed after the last completion date on record, a new permit shall be submitted to the Agency and shall be accompanied by the appropriate nonrefundable fee as set forth in Table 3.5(a) of these Regulations.

(g) Advance Notification Period - Exemptions (Emergency). The Control Officer, or designee, may waive the required ten working day advance notification period in Rule ~~((3.5))~~ 6.3.2 for an asbestos project or demolition if the facility owner demonstrates to the Control Officer, or designee, that there is an emergency as follows:

(1) There was a sudden, unexpected event that resulted in a public health or safety hazard; or

(2) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage; or

(3) Asbestos containing materials encountered that were not identified during the asbestos survey; or

(4) The project must proceed to avoid imposing an unreasonable financial burden to the property owner.

The request for an Emergency Project must meet the requirements below:

(1) Emergency Asbestos Project. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for an asbestos project. The request shall be submitted for approval by the Control Officer, or designee, and be accompanied by the required ((application)) permit and appropriate fee as required by Rules 3.5, 6.3.2(a), and 6.3.2(b). Any request for approval of an emergency asbestos project shall include, at a minimum:

(i) The complete name, mailing address, and telephone number of the facility owner or operator, including city((;)) and zip code((-and county));

(ii) The complete street address or location of the asbestos project site, including the city((;)) and zip code((-and county));

(iii) A description of the sudden and unexpected event including the date ~~((and hour that))~~ the emergency occurred; and

(iv) An explanation of how the sudden and unexpected event has caused an emergency condition.

(2) Government Ordered Demolition. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for a demolition if the request is accompanied by a copy of an order from a federal, state, or local government agency that

requires demolition before the ten (10) working day advance notification period has elapsed. The request and copy of the order shall be submitted for approval by the Control Officer, or designee, and be accompanied by the required ~~((applications))~~ permits and appropriate fee as required by Rules 3.5, 6.3.2(a) and 6.3.2(b). Any request for approval of an emergency demolition shall include, at a minimum:

(i) The complete name, mailing address, and telephone number of the owner or operator of the facility and the asbestos/demolition project including the city(ies) and zip code(ies) ~~(and county)~~);

(ii) The complete street address or location of the demolition site, including the city(ies) and zip code(ies) ~~(and county)~~);

(iii) The name, title, and authority of the government representative who has ordered the demolition;

(iv) The reason why the demolition was ordered; and

(v) The dates on which the order was received and the demolition was ordered to begin.

Rule 6.3.3 Procedures for Asbestos Emission Control

(a) **Asbestos Project - Requirements.** It shall be unlawful for any person to cause or allow work on an asbestos project unless ~~((an asbestos survey has been conducted and))~~ the following procedures are employed:

(1) Any work on an asbestos project shall be performed by certified asbestos workers under the direct, onsite supervision of a certified asbestos supervisor. This certification requirement shall not apply to ~~((certain limited))~~ asbestos projects conducted in an owner-occupied, single family residence performed by the resident owner of the dwelling in accordance with Rule 6.3.3(b) ~~((for residential dwellings))~~.

(2) The asbestos project shall be conducted in a controlled area, clearly marked by barriers and asbestos warning signs. Access to the controlled area shall be restricted to authorized personnel only, including occasions when asbestos abatement is not actively occurring (e.g., when workers are on break or temporarily off-site.)

(3) All asbestos containing material shall be kept adequately wet while being removed from any structure, building, vessel, or component.

(4) All asbestos containing material that has been removed or may have fallen off components during the course of an asbestos project shall be:

(i) Kept adequately wet until collected for disposal; and

(ii) Collected for disposal at the end of each working day; and

(iii) Contained in a controlled area at all times until transported to a waste disposal site; and

(iv) Carefully lowered to the ground or a lower floor, not dropped, thrown, slid, or otherwise handled in such a manner that may risk further damage to them; or

(v) Transported to the to the ground via dust tight chutes or containers if they have been removed or stripped more than 50 feet above ground level and were not removed as a unit or in sections.

(5) The exterior of each leak-tight container shall be free of all asbestos residue and shall be permanently labeled with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the federal Occupational Safety and Health Administration.

(6) No visible emissions shall result from an asbestos project.

(7) Mechanical assemblies or components covered, coated, or manufactured from asbestos containing material, removed as a unit or in sections, shall be contained in a leak tight wrapping after wetting and labeled in accordance with Rule 6.3.4 (a)(1)(iii).

(i) For large components such as boilers, steam generators, and large tanks, the asbestos containing material is not required to be removed or stripped if the components can be removed, stored, transported, and deposited at a waste disposal site or reused without disturbing or damaging the asbestos.

(ii) Metal components such as valves, fire doors, and reactor vessels that have internal asbestos containing material may avoid wetting and leak tight wrapping if:

(A) All access to the asbestos containing material is welded shut; or

(B) The component has mechanical seals in place that separate the asbestos containing material from the environment and these seals cannot be removed by hand; and

(C) The components are labeled in accordance with Rule 6.3.4 (a)(1)(iii).

(8) Local exhaust ventilation and collection systems used on an asbestos project shall:

(i) Be maintained to ensure the integrity of the system; and

(ii) When feasible, have one or more transparent plastic or glass viewing ports installed on the walls of the enclosure in such a manner that will allow for viewing of all components inside the enclosure. When available, existing windows may be utilized for viewing ports.

(9) Local exhaust ventilation and collection systems, control devices, and vacuum systems, used on an asbestos project shall be equipped with a HEPA exhaust filter, maintained in good working order, and exhibit no visible emissions.

(10) It shall be unlawful for any person to create or allow a condition that results in the disturbance, or likely disturbance, of asbestos containing material (e.g., not removing all asbestos containing material in a structure scheduled for demolition or partially removing asbestos containing material and leaving remaining asbestos containing material in a state that makes it more susceptible to being disturbed, or leaving it on the ground, outside and open to the environment.

(b) **Asbestos Project - Exemptions for Residential Dwellings.** The requirements of 6.3.3 (a)(1) ~~((shall not apply to asbestos projects conducted in a residential dwelling by the resident owner of the dwelling, except that the requirements of 6.3.3 (a)(1))~~) shall not apply to the removal of asbestos on furnace interiors and direct applied mudded asbestos insulation on hot water heating systems((, which may not be removed by the resident owner)). This work must be done by asbestos certified individuals in accordance with Washington State Labor and Industries or Occupational Safety Health Administration standards.

(c) **Renovation - Requirements.** It shall be unlawful for any person to cause of allow any renovation unless prior to renovation, the property owner or the owner's agent obtains

an asbestos survey, or can otherwise competently declare the material being removed as not containing asbestos and file appropriate permits.

(d) Demolition - Requirements. It shall be unlawful for any person to cause or allow the demolition of any building, vessel, structure, or portion thereof, unless all asbestos containing materials have been removed from the area to be demolished. It shall be unlawful for any person to cause or allow any demolition that would disturb asbestos containing material or prevent access to the asbestos containing material for removal and disposal.

(e) Demolition - Asbestos Removal Exemptions. Asbestos containing material need not be removed before the demolition of any building, vessel, structure, or portion thereof if:

(1) The asbestos containing material is on a component that is encased in concrete or other material determined by the Control Officer, or designee, to be equally effective in controlling asbestos emissions. In this case, the ~~((application))~~ permit requirements of Rule 6.3.2 shall apply and these materials shall be kept adequately wet whenever exposed during demolition until disposed of in accordance with Rule 6.3.4 (a)(2); or

(2) The asbestos containing material could not be removed prior to demolition because it ~~((was))~~ is not accessible until after demolition ~~((began))~~ begins. In this case, the ~~((application))~~ permit requirements of Rule 6.3.2 shall apply and the exposed asbestos containing material and asbestos contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Rule 6.3.4 (a)(2); or

(3) The material was not accessible for removal because of hazardous conditions. Such conditions may include environments that are contaminated by toxic substances, structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health. Under such conditions, the facility owner or operator may submit a signed written request for conditional approval by the Control Officer, or designee, to waive the requirements of Rule 6.3.3(c). In this case, the ~~((application))~~ permit requirements of Rule 6.3.2 shall apply and the exposed asbestos containing material and asbestos contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Rule 6.3.4 (a)(2). Evidence of the hazardous condition, as documented by a state or local government agency, or other competent person, shall accompany the written request in addition to the ~~((application))~~ permit and appropriate fee as required by Rule 6.3.2. The request for exemption from Rule 6.3.3(c) shall include, at the minimum:

(i) The complete name, mailing address, and telephone number of the owner or operator of the facility, including the city~~((:))~~ and zip code~~((, and county))~~

(ii) The complete street address or location of the demolition site, including the city~~((:))~~ and zip code~~((, and county))~~;

(iii) The name, title, and authority of the ~~((state or local government representative))~~ person who has determined the hazardous condition;

(iv) A description of the hazardous condition that prevents the removal of asbestos containing material prior to demolition, including the amount, type, and specific location(s) within the structure of such materials; and

(v) The procedures that will be used to prevent the release of asbestos fibers into the ambient air.

(f) Alternative Control Measures. The owner or operator of an asbestos project may submit a signed written request to use an alternative control measure that is equally effective in controlling asbestos emissions, for ~~((conditionally))~~ ~~((approved))~~ approval by the Control Officer, or designee. The written request shall include, at a minimum:

(1) The complete name, mailing address, and telephone number of the owner or operator of the asbestos project, including the city and zip code;

(2) The complete street address or location of the site, including the city~~((:))~~ and zip code~~((, and the county))~~;

(3) A description of the material, including the type and percentage of asbestos in the material, total amount of material involved, and the specific location(s) of the material on the site; and

(4) The reason why an alternative control measure is required and a description of the proposed alternative control measure to be employed, including the procedures that will be used to prevent the release of asbestos fibers into the ambient air.

Rule 6.3.4 Disposal of Asbestos Containing Waste Material

(a) Disposal Requirements. It shall be unlawful for any person to cause or allow work on an asbestos project unless the following procedures are employed during the collection, processing, packaging, transporting, or deposition of any asbestos containing material:

(1) Treat all asbestos containing waste material as follows:

(i) Adequately wet all asbestos containing waste material and mix asbestos waste from control devices, vacuum systems, or local ventilation and collection systems with water to form a slurry;

(ii) After wetting, seal all asbestos containing waste material in leak tight containers or wrapping to ensure that they remain adequately wet when deposited at a waste disposal site;

(iii) Permanently label wrapped materials and each container with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the Occupational Safety and Health Administration. Permanently mark the label with the date the material was collected for disposal, the name of the waste generator, the name and affiliation of the certified asbestos supervisor, and the location at which the waste was generated;

(iv) Ensure that the exterior of each container is free of all asbestos residue; and

(v) Exhibit no visible emissions during any of the operations required by this rule.

(2) All asbestos containing waste material shall be deposited within ten (10) calendar days after collection for disposal at a waste disposal site operated in accordance with the provisions of 40 CFR 61.154 or 40 CFR 61.155 and approved by the appropriate ~~((health))~~ city or county department ~~((with jurisdiction))~~. The requirement is modified by Rule 6.3.2(c) for asbestos containing waste material from asbestos projects conducted under annual ~~((applications))~~ permit.

(3) All asbestos containing waste materials, handled as dangerous waste in accordance with chapter 173-303 WAC, shall be excluded from the requirements of Rule 6.3.4 (a)(1) and 6.3.4 (a)(2).

(b) Alternative Storage Method - Asbestos Storage Facility. The owner or operator of a licensed asbestos abatement company or disposal facility may apply to the Control Officer, or designee, to establish a facility for the purpose of collecting and temporarily storing asbestos containing waste material.

(1) It is unlawful to cause or allow the operation of a temporary asbestos storage facility without the prior written approval of the Control Officer, or designee.

(2) The owner or operator must request authorization (~~submit a complete application~~) for an asbestos storage facility. When approved, ~~(an) the (Asbestos Storage Facility)~~ Authorization will be returned and ~~(to be posted at the entrance to)~~ be available at the facility.

(3) An asbestos storage facility shall meet the following general conditions:

(i) Asbestos containing waste material must be stored in a container with a single piece liner at least 6 mil in thickness; and

(ii) Said container must be in a secured building or in a secured exterior enclosure; and

(iii) The container and enclosure must be locked except during transfer of asbestos containing waste material and have asbestos warning signs posted on the container; ~~(and)~~

(iv) Storage, transportation, disposal, and return of the waste shipment record to the waste generator will not exceed the 45 day requirement of 40 CFR Part 61.150(-); and

(v) A copy of all waste shipment records shall be retained for at least 2 years, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site. A copy of the waste shipment records shall be provided to the Agency upon request.

(c) Alternative Disposal Method - Asbestos Cement Water Pipe. Asbestos cement water pipe used on public right of ways or public easements shall be excluded from the disposal requirements of Rule 6.3.4 (a)(2) if the following conditions are met:

(1) ~~(Any a) Asbestos cement (water) pipe (greater than one (1) linear foot in size))~~ may be buried in place ~~(on public right of ways or public easements)~~ if the pipe is left intact (e.g., not moved, broken or disturbed) and covered with at least three (3) feet or more of non-asbestos fill material and the state, county or city authorities ((be)) are notified in writing of buried asbestos cement pipe; and

(2) All asbestos containing waste material, including asbestos cement water pipe fragments that are one (1) linear foot or less, protective clothing, HEPA filters, or other asbestos contaminated material, debris, or containers, shall be subject to the requirements of Rule 6.3.

Rule 6.3.5 Controlled and Regulated Substances

(a) No person shall cause or allow visual asbestos emissions, including emissions from asbestos waste materials

(1) On public or private lands, on developed or undeveloped properties and on any open uncontrolled and non-designated disposal sites;

(2) ~~((No visual emissions to the outside air d))~~ During the collection, processing, handling, packaging, transporting, storage and disposal of any asbestos containing waste material; or

(3) From any fugitive source.

(4) ~~((Vinyl asbestos tile (VAT) shall be subject to the requirements of Rule 6.3.))~~

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Olympic Region Clean Air Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 08-18-007

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 22, 2008, 8:12 a.m., effective September 22, 2008]

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

Purpose: This rule change is needed to correct language on reviewing denials of expedited services and remove outdated language on reporting requirements.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-472-0005.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055.

Adopted under notice filed as WSR 08-14-124 on July 1, 2008.

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 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: August 21, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-14-023, filed 6/21/02, effective 7/1/02)

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

(1) If you apply for or get cash, food or medical assistance benefits you have the right to:

(a) Have your rights and responsibilities explained to you and given to you in writing;

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

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

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

(i) If you are eligible for expedited services under WAC 388-406-0015, you get food assistance within five days. If we deny you expedited services, you have a right to ask that the decision be reviewed by the department within two working days from the date we denied your ~~((application))~~ request for expedited services;

(ii) If you are pregnant and otherwise eligible, you get medical within fifteen working days.

(iii) General assistance (GAU), alcohol or drug addiction treatment (ADATSA), or medical assistance may take up to forty-five days; and

(iv) Medical assistance requiring a disability decision may take up to sixty days.

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

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

(g) Ask us not to collect child support or medical support if you fear the noncustodial parent may harm you, your children, or the children in your care;

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

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

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

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

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

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

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

(a) Tell us if you are pregnant, in need of immediate medical care, experiencing an emergency such as having no

money for food, or facing an eviction so we can process your request for benefits as soon as possible;

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

(i) Shelter costs;

(ii) Child or dependent care costs;

(iii) Child support that is legally obligated;

(iv) Medical expenses; and

(v) Self-employment expenses.

(c) Report changes as required under WAC 388-418-0005 and 388-418-0007. ~~((If you get:~~

~~(i) Cash or food assistance, changes must be reported within ten days from the date you learn of the change; or~~

~~(ii) Medical assistance, changes must be reported within twenty days from the date you learn of the change.))~~

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

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

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

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

(h) Complete reports and reviews when asked;

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

(j) Give your medical identification card or letter of eligibility from us to your medical care provider; and

(k) Cooperate with the quality control review process.

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

WSR 08-18-008

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 22, 2008, 8:13 a.m., effective September 22, 2008]

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

Purpose: This rule change is needed in order to provide the rules for administering the disaster cash assistance program. Section 301(6), chapter 181, Laws of 2008 (SB 6950) authorized that during a state of emergency and pursuant to an order from the governor, CEAP benefits be extended to individuals and families without children. When effective, this rule supersedes the emergency rule filed as WSR 08-13-029.

Citation of Existing Rules Affected by this Order: Amending WAC 388-436-0045.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055.

Other Authority: Section 301(6), chapter 181, Laws of 2008 (SB 6950).

Adopted under notice filed as WSR 08-14-122 on July 1, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 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 2, Amended 1, Repealed 0.

Date Adopted: August 21, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-436-0045 Income deductions for CEAP. The following deductions are allowed when determining the CEAP assistance unit's net income:

- (1) A ninety dollar work expense from each member's earned income;
- (2) Actual payments made by a member with earned income for care of a member child up to the following maximums:

Hours Worked Per Month	Each Child Under Two Years	Each Child Two Years Or Older
0 - 40	\$ 50.00	\$ 43.75
41 - 80	100.00	87.50
81 - 120	150.00	131.25
121 or More	200.00	175.00

- (3) Verified expenses for members of the assistance unit during the current month as follows:

- (a) Medical bills;
- (b) Child care paid in an emergency in order to avoid abuse;
- (c) Dental care to relieve pain; or
- (d) Costs incurred in obtaining employment.

(e) For the disaster cash assistance program (DCAP), disaster related expenses and/or losses suffered as a result of the disaster and the expense and/or loss is not anticipated to be reimbursed during the month of application.

NEW SECTION

WAC 388-436-0055 What is the disaster cash assistance program (DCAP)? Disaster cash assistance program (DCAP) is paid through the consolidated emergency assistance program (CEAP) and is designed to provide cash assis-

tance to individuals and families who face an emergency and do not have the money to meet their basic needs.

- (1) DCAP is available if you meet all of the following:

- (a) You suffered losses and live in an area that has been declared a disaster for individuals by the Governor.
- (b) You are not able to live in your home or you cannot return to your home because of the disaster;
- (c) Your home in the disaster area is your primary residence (not a vacation home) and you were living there at the time of the disaster;
- (d) You are a resident of Washington state as defined in WAC 388-468-0005;
- (e) Your net income is under the limits in WAC 388-436-0050(1); and
- (f) You or your family is not eligible for any other program that could meet your need as stated in WAC 388-436-0030.

- (2) Applicants must demonstrate a financial need for emergency funds for one or more of the following basic requirements:

- (a) Food;
- (b) Shelter;
- (c) Clothing;
- (d) Minor medical care;
- (e) Utilities;
- (f) Household maintenance supplies; or
- (g) Necessary clothing or transportation costs to accept or retain a job.

- (3) Payments under this program are limited to not more than thirty consecutive days within a period of twelve consecutive months.

NEW SECTION

WAC 388-436-0060 How much money can I receive from the disaster cash assistance program (DCAP)? The amount of money you can get from DCAP depends on your available resources, income and household size as determined below:

- (1) Available resources and income are determined by using WAC 388-436-0035. Excluded resources and income is in WAC 388-436-0040.

- (2) We determine your income based on gross anticipated income for the month of application.

- (3) The maximum amount of money you can receive depends on the size of your household as determined by WAC 388-456-0050(2).

- (4) Your household consists of anyone living with you who you have financial responsibility for or with whom you share financial responsibility for the household such as:

- (a) Your spouse;
- (b) Domestic partner; or
- (c) Your children or step-children.

- (5) How much DCAP you may receive is determined according to calculations described in WAC 388-436-0050(3).

WSR 08-18-009
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)
 [Filed August 22, 2008, 8:16 a.m., effective September 22, 2008]

Date Adopted: August 21, 2008.

Stephanie E. Schiller
 Rules Coordinator

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

Purpose: This rule change is needed to revise the payment standards and maximum earned income limits for the consolidated emergency assistance program (CEAP) to match the 3% increase for temporary assistance for needy families (TANF), state family assistance (SFA) and refugee cash assistance (RCA), which went into effect July 1, 2008. An increase for TANF assistance was mandated in ESHB 2687 section 207 (1)(e). When effective, this permanent rule supersedes the emergency rule filed as WSR 08-14-101.

Citation of Existing Rules Affected by this Order: Amending WAC 388-436-0050.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Adopted under notice filed as WSR 08-14-123 on July 1, 2008.

Changes Other than Editing from Proposed to Adopted Version: In subsection (2) of the WAC, under minor medical care for a two-person household, the number was changed from 335 to 234. The change was made to correct a typographical error.

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 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.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-436-0050 Determining financial need and benefit amount for CEAP. (1) To be eligible for CEAP assistance, the assistance unit's nonexcluded income, minus allowable deductions, must be less than ninety percent of the TANF payment standard for households with shelter costs. The net income limit for CEAP assistance units is:

Assistance Unit Members	Net Income Limit
1	\$ ((314)) <u>323</u>
2	((396)) <u>407</u>
3	((494)) <u>505</u>
4	((577)) <u>594</u>
5	((666)) <u>685</u>
6	((756)) <u>779</u>
7	((873)) <u>900</u>
8 or more	((967)) <u>996</u>

(2) The assistance unit's allowable amount of need is the lesser of:

(a) The TANF payment standard, based on assistance unit size, for households with shelter costs as specified under WAC 388-478-0020; or

(b) The assistance unit's actual emergent need, not to exceed maximum allowable amounts, for the following items:

Need Item: Maximum allowable amount by assistance unit size:

	1	2	3	4	5	6	7	8 or more
Food	((211)) <u>217</u>	((268)) <u>276</u>	((332)) <u>341</u>	((391)) <u>402</u>	((450)) <u>463</u>	((511)) <u>526</u>	((583)) <u>600</u>	((645)) <u>664</u>
Shelter	((258)) <u>265</u>	((325)) <u>334</u>	((404)) <u>416</u>	((476)) <u>490</u>	((548)) <u>564</u>	((621)) <u>639</u>	((719)) <u>740</u>	((795)) <u>818</u>
Clothing	((30)) <u>31</u>	((38)) <u>39</u>	((47)) <u>48</u>	((56)) <u>57</u>	((64)) <u>65</u>	((73)) <u>75</u>	((83)) <u>85</u>	((94)) <u>96</u>
Minor Medical Care	((179)) <u>184</u>	((228)) <u>234</u>	((282)) <u>290</u>	((332)) <u>341</u>	((382)) <u>393</u>	((432)) <u>444</u>	((501)) <u>516</u>	((554)) <u>570</u>
Utilities	((87)) <u>89</u>	((110)) <u>113</u>	((136)) <u>140</u>	((160)) <u>164</u>	((184)) <u>189</u>	((210)) <u>216</u>	((243)) <u>250</u>	((268)) <u>276</u>

	1	2	3	4	5	6	7	8 or more
Household maintenance	((64)) <u>65</u>	((81)) <u>83</u>	((100)) <u>103</u>	((118)) <u>121</u>	((136)) <u>140</u>	((155)) <u>159</u>	((178)) <u>183</u>	((197)) <u>202</u>
Job related transportation	((349)) <u>359</u>	((440)) <u>453</u>	((546)) <u>562</u>	((642)) <u>661</u>	((740)) <u>762</u>	((841)) <u>866</u>	((971)) <u>1000</u>	((1075)) <u>1107</u>

(3) The assistance unit's CEAP payment is determined by computing the difference between the allowable amount of need, as determined under subsection (2) of this section, and the total of:

(a) The assistance unit's net income, as determined under subsection (1) of this section;

(b) Cash on hand, if not already counted as income; and

(c) The value of other nonexcluded resources available to the assistance unit.

(4) The assistance unit is not eligible for CEAP if the amount of income and resources, as determined in subsection (3) of this section, is equal to or exceeds its allowable amount of need.

these documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

6 REFERENCE TO AFFECTED RULES: This order amends WAC 480-07-110 Exemptions from and modifications to commission rules; conflicts involving rules, 480-07-125 Physical address; telephone; fax; web portal; e-mail; internet, 480-07-140 Communicating with the commission, 480-07-145 Filing documents in adjudicative proceedings, 480-07-160 Confidential information, 480-07-180 Incorporated and referenced materials in commission rules and orders, 480-07-395 Pleadings, motions, and briefs—Format requirements; citation to record and authorities; verification; errors; construction; amendment, 480-07-510 General rate proceedings—Electric, natural gas, pipeline and telecommunications companies, 480-07-630 Telecommunications companies—Arbitration under the Telecommunications Act of 1996, 480-07-900 Open public meetings, 480-07-904 Delegation of authority to the executive secretary to decide certain matters, and 480-07-905 Delegation of authority to executive secretary to enter *ex parte* orders.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed preproposal statements of inquiry (CR-101s) on December 5, 2007, at WSR 07-24-081, and on March 19, 2008, at WSR 08-07-083.

8 The statements advised interested persons that the commission was considering initiating a rule making to revise and clarify procedural rules in chapter 480-07 WAC. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101s to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notices to the commission's lists of regulatory attorneys. The commission posted the relevant rule-making information on its internet web site at <http://www.utc.wa.gov>. Pursuant to the notice, the commission received written comments.

9 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on June 4, 2008, at WSR 08-12-086. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 08-12-086 at 1:30 p.m., Thursday, August 14, 2008, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

10 WRITTEN COMMENTS: The commission received written comments from Verizon Northwest Inc. (Verizon) and the public counsel section of the Washington state attorney general's office (public counsel) suggesting changes to one of the rules authorizing delegation of certain actions to the secretary. The commission finds these suggested changes appropriate and includes the changes in the rules contained in Appendix A, shown below, and made part of, this order.

11 RULE-MAKING HEARING: The commission considered the proposed rules for adoption at a rule-making hearing

WSR 08-18-012

PERMANENT RULES

UTILITIES AND TRANSPORTATION

COMMISSION

[Docket A-072162, General Order R-550—Filed August 22, 2008, 11:18 a.m., effective September 22, 2008]

In the matter of amending and adopting chapter 480-07 WAC, relating to the commission's procedural rules.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 08-12-086, filed with the code reviser on June 4, 2008. The commission brings this proceeding pursuant to RCW 80.01.040 and 80.04.160.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts these rules on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 To avoid unnecessary duplication in the record of this docket, the commission designates the discussion in this order, including Appendix A, as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda and summaries of comments preceding the filing of the CR-102 proposal and the adoption hearing. Together,

on Thursday, August 14, 2008, before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. No other interested person made oral comments.

12 SUGGESTIONS FOR CHANGE THAT ARE ACCEPTED: Verizon and public counsel submitted written comments suggesting changes to the proposed rules. Verizon and public counsel both raised concerns with the language in one of the proposed delegation rules addressing delegation of decisions concerning transfers and disposal of telecommunications company property. The suggested changes and the commission's reasons for accepting the suggested changes are described below.

13 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and adopt the rules as proposed in the CR-102, with changes from the text noticed at WSR 08-12-086, as described below in this order.

14 CHANGES FROM PROPOSAL: The commission adopts the proposal with the following changes from the text noticed at WSR 08-12-086.

15 To address comments submitted by Verizon and public counsel, the language as proposed for WAC 480-07-904 (1)(I) is modified to read as follows, with added or deleted language in bold:

(1) The commission delegates the following matters to the executive secretary for decision. ...

(I) Requests by telecommunications companies for authorization of transfers of property by telecommunications companies under WAC 480-~~120-379~~143-120 (Transfers of property) or determination under WAC 480-143-180 (Disposal and determination of necessary and useful property) that property is not necessary or useful to perform public duties and may be disposed, limited to applications for the disposal of property that has a market value that exceeds does not exceed either one percent of the company's rate base, last established by commission order, or two hundred thousand dollars, whichever is greater.

16 Both Verizon and public counsel commented that the proposed language - "property that has a market value that exceeds" - appears to inadvertently limit delegation of such transfers of property to transactions with significant customer impact, rather than *de minimis* items, as public counsel had suggested in comments on draft rules circulated during the CR-101 phase of the rule making.

17 In addition, Verizon objected to the omission of language in the proposed rule that would allow the delegation of determinations under WAC 480-143-180 that property intended for disposal is not necessary or useful to a company's regulated business.

18 The suggested changes to the proposed rule will address both Verizon's and public counsel's comments by allowing delegation of decisions to approve *de minimis* transfers of property and of determinations that property below a certain market value is not necessary and useful and may be disposed.

19 In addition, the reference to the commission's web site in WAC 480-07-145 (6)(b) is corrected to read www.utc.wa.gov/e-filing, rather than www.wutc.wa.gov/e-filing.

20 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that WAC 480-07-110, 480-07-125, 480-07-140, 480-07-145, 480-07-160, 480-07-180, 480-07-395, 480-07-510, 480-07-630, 480-07-900, 480-07-904, and 480-07-905 should be amended to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

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 12, 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.

ORDER

21 THE COMMISSION ORDERS:

22 The commission amends and adopts WAC 480-07-110, 480-07-125, 480-07-140, 480-07-145, 480-07-160, 480-07-180, 480-07-395, 480-07-510, 480-07-630, 480-07-900, 480-07-904, and 480-07-905 to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after the date of filing with the code reviser.

23 This order and the rules set out below, after being recorded in the register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01, 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, August 21, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

Mark H. Sidran, Chairman
Patrick J. Oshie, Commissioner
Philip B. Jones, Commissioner

AMENDATORY SECTION (Amending Docket A-050802, General Order R-536, filed 7/27/06, effective 8/27/06)

WAC 480-07-110 Exemptions from and modifications to commission rules; conflicts involving rules. (1) Exceptions and modifications. The commission may grant an exemption from or modify the application of its rules in individual cases if consistent with the public interest, the purposes underlying regulation, and applicable statutes. The commission may modify the application of procedural rules in this chapter during a particular adjudication consistent

with other adjudicative decisions, without following the process identified in subsection (2) of this section.

(2) **Process.**

(a) **How to request an exemption to or modification of a rule.** To request a rule exemption or modification, a person must file with the commission a written petition identifying the rule for which an exemption is sought, and provide a full explanation of the reason for requesting the exemption. Telecommunications companies, gas companies or electric companies filing petitions for exemption under this section shall provide a copy of the request with the public counsel section of the attorney general's office by mail or e-mail, within one business day of the day the request is filed with the commission.

(b) **Commission process.** The commission will assign the petition a docket number, if it does not arise in an existing docket, and will schedule the petition for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the open meeting or hearing when the commission will consider the petition.

(c) **Standard for consideration.** The standard for consideration is the public interest standard. Factors the commission may consider include whether application of the rule would impose undue hardship on the requesting person, of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the underlying purposes of the rule.

(d) **Disposition.** The commission will enter an order granting or denying the petition, or setting it for hearing.

(3) **Conflicts involving rules.** In the event of conflict between these rules and statutes, or rules in other chapters of Title 480 of the Washington Administrative Code, applicable to specific types of companies regulated by the commission or to others who may conduct business with the commission, or to particular proceedings, those statutes or special rules govern.

(4) **Emergency situations.** In the event of a state of emergency, and for good cause shown, the commission may enter an order on its own motion, or upon the motion of any person or public service company affected by the rule, exempting public service companies, the commission and all affected persons, from complying with the requirements of specific rules in this title.

AMENDATORY SECTION (Amending Docket A-050802, General Order R-536, filed 7/27/06, effective 8/27/06)

WAC 480-07-125 Physical address; telephone; fax; web portal; e-mail; internet. The information included in this section is current at the time of rule adoption, but may change. Current information and additional contact information are available on the commission's internet site, in person at the commission offices, or by a telephone call to the commission's main public number.

Location and mailing address:	Washington Utilities and Transportation Commission 1300 S. Evergreen Park Drive S.W. P.O. Box 47250 Olympia, WA 98504-7250
Telephone: Public number	360-664-1160
Records center number	((360-586-1234)) 360-664-1234
Consumer inquiries, comments and informal complaints	1-800-562-6150
Fax: Public and records center	360-586-1150
Web portal	((www.wute.wa.gov/e-filing)) <u>www.utc.wa.gov/e-filing</u>
Records center e-mail	((records@wute.wa.gov)) <u>records@utc.wa.gov</u>
Internet web site	((www.wute.wa.gov)) <u>www.utc.wa.gov</u>

AMENDATORY SECTION (Amending Docket A-050802, General Order R-536, filed 7/27/06, effective 8/27/06)

WAC 480-07-140 Communicating with the commission. (1) **Scope of rule.** This rule includes general requirements for effective communication with the commission.

The commission encourages use of the commission's records center web portal for filing and submitting documents with the commission. Customers of regulated companies who have a complaint about their service provider are encouraged to contact the commission as described in WAC 480-07-910. Anyone wishing to comment on a matter before the commission may submit comments by telephone, letter, fax, e-mail or by using the comment form available on the commission's web site.

(a) **Electronic filing, limitations.** You may *file* documents electronically using the commission's records center web portal (see WAC 480-07-125) if you are submitting documents that are not part of an adjudicative proceeding. Examples include registration applications, tariffs, contracts, ~~((price lists,))~~ rule-making comments, and comments on open meeting items. Electronic filing means the commission accepts the electronic version of the document as the official filing and does not require a paper copy of the documents.

(b) **Electronic submission, adjudications.** You may *submit* documents electronically using the commission's records center web portal (see WAC 480-07-125) or e-mail if you are submitting documents in an adjudicative proceeding. Electronic submission means the commission allows submission of electronic versions of documents, but requires a paper copy of the document as the official filing. Except for testimony and exhibits filed in general rate cases, parties may submit one paper copy of documents of less than twenty-five pages, but must follow the filing requirements in WAC 480-

07-510(1) (nineteen copies) and WAC 480-07-150 (3)(a) (twelve copies) for documents exceeding twenty-five pages.

(c) **Electronic filing of public records requests.** You may file requests for public records electronically using the commission's records center web portal (see WAC 480-07-125). You do not have to file a paper copy of the public records request if it is filed electronically.

(d) **Use of e-mail for electronic filing or submission.** The commission encourages you to use its records center web portal for filing or submitting electronic documents, because it is more reliable and secure than e-mail. If you are unable to use the records center web portal to file or submit documents, the commission will accept a filing or submission received via e-mail addressed to the records center.

(e) You must also comply with other requirements when submitting certain documents, as shown below.

Submissions in these dockets or filings:	Must comply with these rules:
Rule-making dockets	This rule, WAC 480-07-143, and Part II of this chapter
Adjudicative dockets	This rule, WAC 480-07-145, and Part III of this chapter, <i>plus</i> any requirements in the specific adjudication
Utility tariffs and ((telecommunications price lists and)) contracts	This rule, chapter 480-80 WAC, and WAC ((480-07-14X)) 480-07-141
Transportation tariffs and time schedules	This rule, WAC ((480-07-14X)) 480-07-141; and
(i) For auto transportation companies	Chapters 480-30 and 480-149 WAC;
(ii) For commercial ferry companies	Chapters 480-51 and 480-149 WAC;
(iii) For solid waste collection companies	Chapter 480-70 WAC
For public records requests	Chapter ((42-17)) 42.56 RCW and chapter 480-04 WAC

(2) **Content of letters and e-mail messages to the commission.** Letters and e-mail messages to the commission should include only one subject.

(3) **Where to send letters and e-mail messages.** WAC 480-07-125 includes the commission's mailing address and other contact information current at the time of rule publication. Persons who communicate with the commission are encouraged to do so by e-mail to the commission's records center. The commission's internet site includes current and additional contact information.

(4) **Cover letters.** Persons submitting or filing documents with the commission must include a cover letter with the filing, unless the letter or document is one page and

includes the information identified in subsection (5) of this section.

(5) **Identification of sender; identification of permit, license, or certificate; identification of proceeding.** The following requirements will make sure your message to the commission is delivered promptly to the person or persons who need to receive it, and to allow a prompt response. If you do not include the necessary information, we may not be able to promptly handle your message or provide a prompt response.

(a) **Identification of sender.** All persons who communicate with the commission must provide their full name and are asked to provide a mailing address, telephone, fax, and e-mail address to assist the commission in responding. Persons who communicate with the commission on behalf of a business, organization, or other entity must state their name and title or position, and the name of the entity on whose behalf the communication is sent, in addition to the contact information described above.

(b) **Identification of permit, license, or certificate held by sender.** Any person or entity that holds a commission-issued permit, license, or certificate must identify the permit, license, or certificate number (if any), including the exact name under which the authority is held, when communicating with the commission concerning the permit, license, or certificate.

(c) **Identification of proceeding.** Persons who communicate with the commission concerning a formal commission proceeding (e.g., rule-making or adjudication) must identify the proceeding to the best of their ability, including the docket number and name of the proceeding, if known.

(6) **Electronic file format requirements.** The commission requires electronic versions of all documents filed with the commission, including confidential versions of documents that include confidential information.

(a) **Acceptable media.** You may submit documents electronically through the commission's records center web portal, by e-mail file attachment addressed to the commission's records center, or submitted to the records center on a 3 1/2 inch IBM formatted high-density disk or compact disc (CD) labeled with the docket number of the proceeding, if a number has been assigned, the name of the entity and the name of the individual submitting the document, and a description of the contents (e.g., "direct evidence," "motion to dismiss," etc.).

(b) **Acceptable format.** Electronic versions of all documents, including confidential versions of documents that include confidential information, must be filed in .pdf (Adobe Acrobat) format, supplemented by a separate file in .doc, .docx, .docm (MS Word), ~~((-wpd (WordPerfect))~~), .xls, .xlsx, .xlsm (Excel), or .ppt, .pptx, .pptm (Power Point) formats, so that spreadsheets displaying results of calculations based on formulas include all formulas, and do not include locked, password protected or hidden cells.

(i) The following documents are exempt from the requirement in (b) of this subsection for formatting other than .pdf (Adobe Acrobat):

(A) Documents not created by, for, or on behalf of a party to or a witness in the proceeding for which no version in the required formatting is available; and

(B) Published, copyrighted material and voluminous material not originally prepared in the required format.

(ii) Any person who requests a document to be provided in a format other than .pdf (Adobe Acrobat), whose request is denied, may request relief from the commission.

(iii) **Confidential and redacted versions.**

(A) Parties must separately submit and clearly identify electronic versions of confidential and redacted documents when submitting documents via e-mail or the commission's web portal.

(B) Redacted versions of electronic documents that mask confidential information should be filed exclusively in .pdf format. Parties who cannot create Adobe Acrobat files directly must provide a copy of the document converted to Adobe Acrobat via scanning or other available technology.

(c) ***File naming conventions.*** Electronic files must be named in a way that describes the file contents. Parties should use the format identified in the following examples, identifying the docket number, the nature of the document, and the party submitting it:

Testimony	UE-010101 Smith direct (name of party) (date) UT-020202 Jones rebuttal attachment 1 (name of party) (date)
Motions	UG-030303 motion to dismiss (name of party) (date) UW-040404 answer to motion to dis- miss (name of party) (date)
Correspondence	TG-010203 (name of party) request for continuance (date)

(d) ***Acceptable organization.*** Each party must submit all files to meet a single deadline at the same time and in the same message or diskette. When a party submits two or more files at the same time, the files must be organized into folders, and the party must provide a printed index. The index may be included in a cover letter or provided as an attachment to a cover letter. The index also must be provided in the form of an electronic file.

Example:

Folder and diskette name	I. U-020304 (name of party) direct evidence (date)
Subfolders	A. U-020304 (name of party) (name of witness) direct (date) B. U-020304 (name of party) (name of witness) direct (date)
Files	1. U-020304 (name of witness) direct (name of party) (date) 2. U-020304 (name of witness) direct att 1 (name of party) (date)

AMENDATORY SECTION (Amending Docket A-050802, General Order R-536, filed 7/27/06, effective 8/27/06)

WAC 480-07-145 Filing documents in adjudicative proceedings. (1) **Scope of rule.** This section governs com-

munications to the commission by parties in adjudicative proceedings. These rules are in addition to the general rules for communicating with the commission in WAC 480-07-140 and any requirements in a specific adjudication.

(2) **Mail or hand delivery service is required for all documents.** Parties to adjudicative proceedings before the commission must file original, signed documents and paper copies by mail or hand delivery (e.g., courier delivery service) as provided in this rule to satisfy official filing requirements and meet the commission's administrative needs. The commission (~~(may)~~) provides for the expedited exchange of documents among parties and the commission by e-mail and fax transmission (~~(when necessary for process requirements in individual)~~) in adjudicative proceedings.

(a) ***When deemed received/ filed.*** A document submitted in an adjudicative proceeding is officially received for filing only when the original document, including the required certificate of service under subsection (6) of this section, and the required number of copies, are physically received at the commission's records center by mail or in-hand delivery and stamped with the date and time. The date-stamped time will determine whether a document meets any later deadline based on filing. Documents that are delivered to the commission's records center after 5:00 p.m. are not considered officially received or filed until the next business day when they are stamped with the date and time.

(b) ***Exception for documents offered and received at hearing.*** When authorized by the presiding officer in an adjudicative proceeding before the commission, a document may be officially received for purposes of the proceeding when the presiding officer receives the document for the record at hearing. The presiding officer may also require that a copy be filed in the commission records center.

(c) ***Where to mail/deliver.*** All written communications mailed or hand-delivered to the commission must be addressed to the commission's secretary at the address specified in WAC 480-07-125.

(d) ***Filings must be supplemented by an electronic version of the document.*** Parties filing pleadings, motions, pre-filed testimony and exhibits, and briefs must supplement their filing by submitting the document in electronic form, as specified in WAC 480-07-140(5), unless excused from the obligation by the presiding officer.

(3) **Number of copies; failure to file sufficient number of copies.**

(a) ***Number of copies.*** Unless the commission specifies a different number of copies, every pleading, motion, response, and brief submitted to the commission by mail or courier must be filed with twelve copies. A party for whom providing the required number of copies would be a hardship may describe the hardship and request permission to file fewer copies.

(b) ***Failure to file sufficient number of copies.*** If a person files fewer than the required number of copies of a document, the commission may reject the filing or the commission may make the additional copies for distribution and processing within the commission. If the commission makes copies to meet the total number required, the commission will bill the filing person at a rate of thirty cents per page, plus sales

tax. This rate compensates for the loss of the worker's attention to assigned duties, the unscheduled use of equipment, and the cost of materials.

(4) **Filing and service are separate requirements.** Filing documents with the commission under this rule and service of the documents to parties under WAC 480-07-150 are both required in all adjudicative proceedings. Filing a document with the commission does not constitute service upon the assistant attorney general or any other party. Likewise, service upon the assistant attorney general does not constitute a filing with the commission.

(5) **Service and certificate of service are required.** Filing a pleading, motion, response, or brief with the commission in an adjudicative proceeding is not complete unless service has been made upon all parties to the proceeding pursuant to WAC 480-07-150. Service must be confirmed by submitting with the filing a valid certificate of service, or its equivalent, as provided in WAC 480-07-150(9).

(6) **Web portal, e-mail or fax transmission may be used to expedite the filing process**~~(, when authorized)~~.

(a) ~~(When permitted,)~~ **Paper copy required.** ~~(The presiding officer may, at a prehearing conference or by notice or order, provide a one-day extension of the paper filing requirement by authorizing submission))~~ Parties may submit documents to the commission electronically through the web portal, e-mail or fax ~~(for delivery of documents)~~ on the date established for paper filing under the procedural schedule in an adjudicative proceeding, subject to the following conditions:

(i) *Timing.* Electronic submissions must be completed by 3:00 p.m. on the date established for filing. The commission encourages the use of the web portal rather than via e-mail or fax.

(ii) *Paper copy required.* The commission must physically receive the original and required number of copies by 12:00 noon on the first business day following the filing deadline established under the procedural schedule.

(iii) *Exact copy is required.* The original and paper copies of the document delivered to the commission on the day following the filing deadline must conform exactly in form and content to the electronic version or the document will not be considered to have been timely filed and may be rejected on that basis.

(iv) ~~(Authorization for electronic submission must be indicated. If you submit electronic documents to the commission through the commission's records center web portal, by e-mail message or by fax transmission on a filing deadline date without providing the original document by that date, you must include an electronic message or fax cover sheet that states the authority to submit the document electronically through the web portal, by e-mail, or fax transmission without simultaneously filing a paper copy.~~

~~(v))~~ **Simultaneous delivery to all parties and presiding officer is required.** All electronic documents submitted to the commission through the web portal, by e-mail message or fax transmission on a filing deadline date must be simultaneously delivered to all parties by e-mail or fax. ~~(At the discretion of the presiding officer, you may be required to)~~ You must also provide courtesy copies via e-mail to the presiding officer ~~(, commission staff, or others)~~. Service by other required

means is not excused, subject to the requirements of WAC 480-07-150.

(b) **Where to send web portal or e-mail message or fax transmission.** Persons using the commission's records center web portal to submit filings electronically should access the following web page: ~~(www.wate.wa.gov/e-filing))~~ www.utc.wa.gov/e-filing. All e-mail and fax transmissions made under this rule should be directed to the commission's records center. Courtesy or informational copies may be sent to other e-mail addresses for the presiding officer or other individual commission employees. When a person submits a document through the web portal, by e-mail or fax, the document should not be sent more than once except to cure transmission or receiving errors.

(c) **When deemed received.** A document submitted through the commission's records center web portal is deemed received only when the sender receives notification from the commission that the document has been received. A document submitted by e-mail or fax is deemed received when the entire document successfully reaches the commission's records center electronic mailbox or fax machine. Documents submitted electronically are not considered officially received or filed until the commission receives the original and paper copies the next business day, when they are stamped with the date and time received.

(7) **Additional rules regarding adjudicative proceedings.** Rules relating to general rate proceedings (subpart B of this chapter) and abbreviated adjudicative proceedings (subpart C of this chapter) govern filing requirements in those proceedings.

AMENDATORY SECTION (Amending Docket A-050802, General Order R-536, filed 7/27/06, effective 8/27/06)

WAC 480-07-160 Confidential information. The commission will provide special handling and limited access to confidential information submitted in compliance with this rule. This rule applies to any information submitted under a claim of confidentiality under RCW 80.04.095. Title 81 RCW does not contain a similar statute. See also, WAC 480-07-420 regarding protective orders in adjudicative proceedings.

(1) Implementation.

(a) **Designated official.** The commission's secretary is the designated official responsible for the commission's compliance with the Public Records Act, chapter ~~((42-17))~~ 42.56 RCW, and for the implementation of this rule. The secretary may designate one or more persons to serve as public records officer to assist in the implementation and application of this rule.

(b) **Provider.** Any person who submits information to the commission or commission staff under a claim of confidentiality pursuant to this rule is a "provider," as that term is used in this rule.

(c) **Requester.** Any person who submits a request for public records under the Public Records Act, chapter ~~((42-17))~~ 42.56 RCW, or a data request in an adjudicative proceeding is a "requester," as that term is used in this rule.

(2) **Confidential information defined.** Confidential information is information that meets any of the following criteria:

(a) Information protected from inspection or copying under an exemption from disclosure requirements under the Public Records Act, chapter ~~((42-17))~~ 42.56 RCW.

(b) Information protected under the terms of a protective order in an adjudicative proceeding.

(c) Valuable commercial information, including trade secrets or confidential marketing, cost, or financial information, or customer-specific usage and network configuration and design information, as provided in RCW 80.04.095.

(3) **How to designate and seek protection of confidential information under this section.** A provider may claim the protection of this rule only by strict compliance with the following requirements. Any failure to comply with these requirements may result in the submission not being accepted as one including confidential information.

(a) **Contents.** The provider must submit the claim of confidentiality in writing, in the same form (i.e., paper or electronic) and at the same time the information claimed to be confidential is submitted. The provider must state the basis upon which the information is claimed to be confidential under this rule, and must identify any person (other than the provider) that might be directly affected by disclosure of the confidential information.

(b) **Marking.**

(i) *Paper copies.* When the document is in paper format, and there is no protective order in place, the provider must clearly mark each copy with the designation "confidential per WAC 480-07-160." The provider must place this mark on the first page of a multipage document and each specific page where the provider claims there is confidential information.

(ii) *Electronic copies.* When the document is in electronic format, such as an e-mail message, or a word processing or spreadsheet file, the "confidential per WAC 480-07-160" mark must be inserted in the e-mail message or on the disk or diskette, on the first page in the file and on each page that the provider claims contains confidential information. The provider must follow the requirements in (c) of this subsection and the format requirements in WAC 480-07-140(6) for submitting electronic documents. Specifically, parties must separately submit and clearly identify electronic versions of confidential and redacted documents when submitting documents via e-mail or the commission's web portal.

(iii) *Protective order, if any, must be cited.* If the provider submits confidential information under the provisions of a protective order, the "confidential" identification on the disk, diskette, or e-mail, on the first page of the document and each page that includes confidential information must state: "Confidential per protective order in WUTC Docket [insert docket number]." When the provider submits confidential information in an electronic format, the provider must mark the document as with a paper copy and follow the format requirements in WAC 480-07-140(6) for submitting electronic documents.

(c) **Unredacted version under seal; redacted version.** The provider must submit ~~((a))~~ an original and the required number of complete copies of the version of the document as to which confidentiality is claimed (unredacted version) and

~~((a))~~ an original and one complete copy of the version of the document with the information claimed to be confidential masked (redacted version). If the provider submits a document under a claim that the entire document is confidential, the provider may submit only the first page of the redacted version if the page indicates that the entire document is claimed to contain confidential information.

(i) *Sealing and labels.* The redacted version must be so labeled and submitted along with a set of any confidential documents. The confidential unredacted version must be so labeled and submitted in a sealed envelope or similar wrapping. A party submitting multiple confidential documents must collate the documents into sets and, to the extent feasible, must enclose each set of confidential documents in a separate envelope and each set of highly confidential documents for filing in a separate envelope.

(ii) *Marking.* Each page of the unredacted version that includes information claimed to be confidential must be printed on yellow or canary paper with the confidential information clearly designated (e.g., by highlighting text with no more than twenty percent grey shading, outlining the confidential information in a box or border, or setting the text off with asterisks). Similarly, each page of the unredacted version that contains information designated highly confidential under a protective order, must be printed on light blue paper with the highly confidential information clearly designated (e.g., by highlighting text with no more than twenty percent grey shading, outlining the highly confidential information in a box or border, or setting the text off with asterisks). The redacted version will be available for public disclosure if requested. The redacted and unredacted versions must have the same pagination and line numbering.

(iii) *Number of copies.* The provider must submit an original and ~~((three))~~ one redacted ~~((copies))~~ copy of each confidential or highly confidential document and an original and twelve copies of the unredacted version of each confidential or highly confidential document, unless the commission has required a different number of copies to be filed. If a document includes both confidential and highly confidential information, the provider ~~((may))~~ must submit unredacted copies including both the confidential and highly confidential information in the same document.

(4) **Challenges to claims of confidentiality.** The commission or a party to a proceeding in which a provider submits a document with a claim of confidentiality may challenge the claim. When a challenge is made, the commission will provide an opportunity to respond before ruling on the challenge. If a confidential designation is challenged, the provider of the confidential information bears the burden to show that part or all of a document should be protected from disclosure under chapter ~~((42-17))~~ 42.56 RCW, RCW 80.04.-095, or a protective order. The commission may express its ruling orally on the record in an adjudicative proceeding, or in a written order.

(5) **Requests for "confidential" information.** Subject to subsections (6) and (7) of this section, the commission will release information designated confidential in response to a request properly filed under the following requirements:

(a) The requester must submit a written request to the commission's secretary on a form provided by the commis-

sion or in a letter containing equivalent supporting information, including the requester's name and address and the name and address of any organization on whose behalf or for whose benefit the request is being made. The requester must state whether the information sought is to be used for a commercial purpose.

(b) The request must be sufficiently specific to allow the secretary to readily identify the document or other material that contains the requested information. Following receipt of a request for confidential information, the secretary will notify the requester of any deficiency in the request. The requester is required to correct the request and resubmit it pursuant to this rule. The commission will take no action pending resubmission.

(c) If a requester wants copies of any documents identified in response to a request, the requester must make arrangements with the commission's secretary to pay the designated copying fees, if any.

(6) **Informal resolution.** When the secretary and the requester agree that the secretary can satisfy the requester's need for information without disclosing confidential information, the secretary will make the information available.

(7) **Notice of request for information designated confidential; release of information designated confidential.** The commission will provide written notice of any request for information designated confidential to the provider and any person identified by the provider as a person who might be directly affected by release of the information. This is to permit any person asserting confidentiality or who might be affected by the release of the information to invoke the statutory procedures for securing a court order to protect the records from disclosure or to take similar steps in compliance with a protective order in an adjudicative proceeding. The commission will issue such notice not more than two days after the requested materials are located and it determines that they contain information claimed to be confidential. The commission will send a copy of the notice to the requester at the same time it sends a copy to the provider.

If the provider consents in writing to the release of the information, or does not restrain disclosure by way of court order within ten days following notice, the commission will consider the information public, remove the confidential designation from its files, and release the information to the requester.

(8) **Judicial intervention by the commission.** The commission need not assist any person in seeking or resisting judicial intervention, but may participate in any such proceeding.

(9) **Designation or redesignation of confidential information in adjudications.** At the conclusion of an adjudication in which confidentiality was asserted as to documents or portions of the record, the party originally asserting confidentiality must, no later than the time for filing briefs or, if no briefs are filed, within ten days after the close of the record, do the following:

(a) Verify the accuracy of all confidential designations in the record and in the exhibit list for the proceeding, and submit any proposed corrections or changes. Absent a statement of proposed corrections or changes, the designations in the record and in the exhibit list are final and will be changed

only if the party asserting confidentiality voluntarily removes, or is required to remove, a confidential designation. If there is conflict between designations, the designation that is least restrictive to public access will be adopted.

(b) File a redacted and unredacted copy of any document as to which confidentiality was asserted during the proceeding but which is not reflected in the record or exhibit list as a document designated confidential.

(c) File an unredacted version of any document designated as confidential during the proceeding, but as to which the party claiming confidentiality wishes to remove the confidential designation, or as to which the confidential designation was terminated by order. In the case of briefs, testimony, and similar documents, the authoring party must file the unredacted version.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-180 Incorporated and referenced materials in commission rules and orders. Any document that is incorporated by reference in a commission rule or order is available for public inspection at the commission unless exempt from the public disclosure requirements in chapter ((42.17)) 42.56 RCW, or under a protective order in an adjudicative proceeding. The commission's secretary will provide a copy of a referenced document upon request, allowing reasonable time for any necessary copying, subject to any pertinent charge, and subject to copyright restrictions or statutory exemptions from public disclosure. The commission incorporates or references the version of the incorporated or referenced material that is current on the day the commission adopts a rule or enters an order that makes the incorporation or reference, unless the commission specifies another version or unless another version is apparent from the reference. In most instances, such information is available to the public on the commission's web site (see WAC 480-07-125).

AMENDATORY SECTION (Amending Docket A-050802, General Order R-536, filed 7/27/06, effective 8/27/06)

WAC 480-07-395 Pleadings, motions, and briefs—Format requirements; citation to record and authorities; verification; errors; construction; amendment. (1) **Format.** All pleadings, motions, and briefs must meet the following format requirements:

(a) **Paper size; legibility; margins.** All pleadings, motions, and briefs must be:

- Submitted on three-hole punched (oversize holes are preferred) 8 1/2 x 11 inch paper.
- Presented in double-spaced, 12-point, palatino, times new Roman, or an equally legible serif font, with footnotes in the same font and of at least 10-point type.
- Presented with paragraphs numbered.
- Printed with margins at least one inch from each edge of the page.

Documents that are electronically filed must meet these requirements when printed.

(b) **Length.** Pleadings, motions, and briefs must not exceed sixty pages (exclusive of exhibits, appended authorities, supporting affidavits and other documents). The presiding officer may alter the page limit, either shortening or lengthening the number of pages allowed, considering the number and complexity of the issues.

(c) **Organization.** Every pleading, motion, and brief must be organized as follows:

(i) **Caption.** At the top of the first page must appear the phrase, "before the Washington utilities and transportation commission." On the left side of the page, the caption of the proceeding must be set out or, if no caption exists, the following: "In the matter of the (complaint, petition, motion, etc.) of (name of the pleading party) for (identify relief sought)." On the right side of the page, opposite the caption, the pleading party must include the docket number if one has been assigned, identify the name of the document (e.g., petition, motion, answer, reply, etc., of (role of party: E.g., petitioner, respondent, protestant, etc., and name of the party if more than one party has the same role in the proceeding)). The caption also must briefly state the relief sought (e.g., "petition for an accounting order"; "motion for continuance").

(ii) **Body of pleading.** The body of the pleading must be set out in numbered paragraphs. The first paragraph must state the pleading party's name and address and if it is the party's initial pleading, the name and address of its representative, if any. The second paragraph must state all rules or statutes that the pleading puts in issue. Succeeding paragraphs must set out the statement of facts relied upon in a form similar to complaints in civil actions before the superior courts of this state. The concluding paragraphs must state the relief the pleading party requests.

(iii) **Body of motion.** A motion must include the following information:

(A) **Relief requested.** A statement of the specific relief the commission is requested to grant or deny.

(B) **Statement of facts.** A succinct statement of the facts that the moving party contends are material to the requested remedy.

(C) **Statement of issues.** A concise statement of the legal issue or issues upon which the commission is requested to rule.

(D) **Evidence relied upon.** Any evidence on which the motion or opposition is based must be specified. Any affidavits, depositions or portions of affidavits or depositions relied upon must be specified. If a party relies on affidavits, deposition transcripts, or documentary evidence, the party must quote the cited material verbatim or attach a photocopy of relevant pages to an affidavit that identifies and verifies the documents. Parties should highlight or otherwise clearly identify the portions of the cited evidence upon which they place substantial reliance.

(iv) **Body of brief.** Unless excused by the presiding officer, the parties must include in their briefs a table of contents in outline format. The commission may require parties to organize their briefs according to a common outline. The presiding officer, in consultation with the parties, will establish the elements of any common outline taking into account

the issues in the proceeding, the parties' preferences, and the commission's needs.

(v) **Citation to record.** Portions of the record relied on or quoted in the body of a brief must be cited using footnotes.

(A) **Transcript.** Transcript references should be as follows: [witness's surname], TR. [page]: [line(s)]. If the transcript reference spans multiple pages, the reference should be as follows: [witness's surname], TR. [page]: [line] - [page]: [line]. Examples: Smith, TR. 21:5-14; Jones, TR. 356:4 - 357:21.

(B) **Exhibits.** Exhibit references should be as follows: Exh. No. [insert number assigned at hearing]. In the case of prefiled testimony offered or received as an exhibit, page number(s), line number(s), and the witness's surname should be added following the style specified in this section for transcript references. In other exhibits, references to page(s), line(s) for text, row(s) and column(s) for tables, or other specific references may be added to clarify the information cited.

(vi) **Citation to authority.** Parties must use the citation formats specified in the current edition of the style sheet of the Washington supreme court reporter of decisions. The presiding officer may require parties to file copies of the text of authorities that are cited in parties' briefs and upon which parties place substantial reliance. Unless excused by the presiding officer, parties must include a table of cited authorities, with the full citation of each reference and its location in the brief.

(vii) Attachments or appendices. If a party attaches more than two attachments or appendices to a pleading, the party must individually separate the attachments by blank sheets with tabs.

(2) **Verification.** All pleadings and motions, except complaints brought by the commission or matters raised by the commission on its own motion must be dated and signed by at least one attorney or representative of record in his or her individual name, stating his or her address, or by the party, if the party is not represented. Parties who are not represented by an attorney must include a statement in any pleading that the facts asserted in the pleading are true and correct to the best of the signer's belief. Parties who bring certain complaints under RCW 80.04.110 or 81.04.110 that challenge the reasonableness of the rates or charges of jurisdictional utilities must provide additional verification as specified in those statutes.

(3) **Errors in pleadings or motions.** The commission may return a pleading or motion to a party for correction when the commission finds the pleading or motion to be defective or insufficient. The commission may disregard or correct obvious typographical errors, errors in captions, or errors in spelling of names of parties.

(4) **Liberal construction of pleadings and motions.** The commission will liberally construe pleadings and motions with a view to effect justice among the parties. The commission, at every stage of any proceeding, will disregard errors or defects in pleadings, motions, or other documents that do not affect the substantial rights of the parties.

(5) **Amendments.** The commission may allow amendments to pleadings, motions, or other documents on such terms as promote fair and just results.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Docket A-050802, General Order R-536, filed 7/27/06, effective 8/27/06)

WAC 480-07-510 General rate proceedings—Electric, natural gas, pipeline, and telecommunications companies. General rate proceeding filings for electric, natural gas, pipeline, and telecommunications companies must include the information described in this section. The commission may reject a filing that fails to meet these minimum requirements, without prejudice to the company's right to refile its request in conformance with this section. ~~((The company must provide:))~~ For purposes of this rule, "file with the commission," means filed with the commission's executive secretary under WAC 480-07-140 at the time the company files its general rate case; whereas "serve" or "provide" to commission staff or another party, means delivery to such persons, not filed with the commission.

(1) **Testimony and exhibits.** The company must file with the commission nineteen paper copies of all testimony and exhibits that the company intends to present as its direct case if the filing is suspended and a hearing held, unless the commission preapproves the filing of fewer copies. In addition, the company must provide one electronic copy of all filed material in the format identified in WAC 480-07-140(6). Material that the company has not produced under its direction and control and that is not reasonably available to it in electronic format, such as generally available copyrighted published material, need not be provided in electronic format. The company must serve a copy of the materials filed under this section on public counsel at the time of filing with the commission in any proceeding in which public counsel will appear. The utility must provide an exhibit that includes a results-of-operations statement showing test year actual results and the restating and pro forma adjustments in columnar format supporting its general rate request. The utility must also show each restating and pro forma adjustment and its effect on the results of operations. The testimony must include a written description of each proposed restating and pro forma adjustment describing the reason, theory, and calculation of the adjustment.

(2) **Tariff sheets.** The company must file with the commission and provide to public counsel a copy of the proposed new or revised tariff sheets in legislative format, with strike-through to indicate any material to be deleted or replaced and underlining to indicate any material to be inserted, in paper and electronic format, unless already provided as an exhibit under subsection (1) of this section. The company must also ~~((provide))~~ file with the commission copies of any tariff sheets that are referenced by new or amended tariff sheets.

(3) **Work papers and accounting adjustments.** ~~((Three copies))~~

(a) At the time the company makes its general rate case filing, the company must provide one copy of all supporting work papers of each witness to public counsel and three copies to staff in a format as described in ~~((b) of))~~ this subsection ~~((must be filed with the utility's general rate request)).~~ ~~((Parties))~~ Staff and each other party must ~~((file))~~ provide

work papers to all other parties within five days after the filing of each subsequent round of testimony filed (e.g., response, rebuttal). If the testimony, exhibits, or work papers refer to a document, including, but not limited to, a report, study, analysis, survey, article or decision, that document must be ~~((provided))~~ included as a work paper unless it is a reported court or agency decision, in which case the reporter citation must be provided in the testimony. If a referenced document is voluminous, it need not be provided ~~((with the filing))~~, but the company must identify clearly the materials that are omitted and their content. Omitted materials must be provided or made available if requested. The following information is required for work papers ~~((that accompany the company's filing and all parties' testimony and exhibits))~~:

~~((a))~~ (b) Organization. Work papers must be plainly identified and well organized, and must include an index and tabs. All work papers must be cross referenced and include a description of the cross referencing methodology.

(c) Electronic documents. Parties must provide all electronic files supporting their witnesses' work papers. The electronic files must be fully functional and include all formulas and linked spreadsheet files. Electronic files that support the exhibits and work papers must be provided using logical file paths, as necessary, by witness, and using identifying file names. A party may file a document with locked, hidden or password protected cells only if necessary to protect the confidentiality of the information within the cells or proprietary information in the document. The party shall designate that portion of the document as confidential under RCW 80.04.095, WAC 480-07-160, and/or a protective order, and the party shall provide it to any person requesting the password who has signed an appropriate confidentiality agreement.

(d) A detailed portrayal of the development of any capital structure and rate of return proposal and all supporting work papers in the format described in ~~((b) of))~~ this subsection.

~~((b))~~ (e) Restating and pro forma adjustments. Parties must ~~((file))~~ provide work papers that contain a detailed portrayal of restating actual and pro forma adjustments that the company uses to support its filing or that another party uses to support its litigation position, specifying all relevant assumptions, and including specific references to charts of accounts, financial reports, studies, and all similar records relied on by the company in preparing its filing, and by all parties in preparing their testimony and exhibits. All work papers must include support for, and calculations showing, the derivation of each input number used in the detailed portrayal and for each subsequent level of detail. The derivation of all interstate and multiservice allocation factors must be provided in the work papers. ~~((Work papers must be plainly identified and well organized, and must include an index and tabs. All work papers must be cross referenced and include a description of the cross referencing methodology. Parties must file all electronic files supporting their witnesses' work papers. The electronic files must be fully functional and include all formulas and linked spreadsheet files. Electronic files that support the exhibits and work papers must be submitted using logical file paths, as necessary, by witness, and using identifying file names.))~~

(i) Change in methodologies for adjustments. If a party proposes to calculate an adjustment in a manner different from the method that the commission most recently accepted or authorized for the company, it must also present a work paper demonstrating how the adjustment would be calculated under the methodology previously accepted by the commission, and a brief narrative describing the change. Commission approval of a settlement does not constitute commission acceptance of any underlying methodology unless so specified in the order approving the settlement.

~~((+))~~ (ii) "Restating actual adjustments" adjust the booked operating results for any defects or infirmities in actual recorded results that can distort test period earnings. Restating actual adjustments are also used to adjust from an as-recorded basis to a basis that is acceptable for rate making. Examples of restating actual adjustments are adjustments to remove prior period amounts, to eliminate below-the-line items that were recorded as operating expenses in error, to adjust from book estimates to actual amounts, and to eliminate or to normalize extraordinary items recorded during the test period.

~~((+))~~ (iii) "Pro forma adjustments" give effect for the test period to all known and measurable changes that are not offset by other factors. The ~~((filing))~~ work papers must identify dollar values and underlying reasons for each proposed pro forma adjustment.

~~((+))~~ (f) A detailed portrayal of revenue sources during the test year and a parallel portrayal, by source, of changes in revenue produced by the filing, including an explanation of how the changes were derived.

~~((+))~~ (g) If the public service company has not achieved its authorized rate of return, an explanation of why it has not and what the company is doing to improve its earnings in addition to its request for increased rates.

~~((+))~~ (h) A representation of the actual rate base and results of operation of the company during the test period, calculated in the manner used by the commission to calculate the company's revenue requirement in the commission's most recent order granting the company a general rate increase.

~~((+))~~ (i) Supplementation of the annual affiliate and subsidiary transaction reports as provided in rules governing reporting requirements for each industry, as necessary, to include all transactions during the test period. The company is required to identify all transactions that materially affect the proposed rates.

(4) Summary document. The company must file with the commission a summary document that briefly states the following information on an annualized basis, if applicable. In presenting the following information, the company must itemize revenues from any temporary, interim, periodic, or other noncontinuing tariffs. The company must include in its rate change percentage and revenue change calculations any revenues from proposed general rate change tariffs that would supersede revenue from noncontinuing tariffs. The summary document must also include:

(a) The date and amount of the latest prior general rate increase authorized by the commission, and the revenue realized from that authorized increase in the test period, based on the company's test period units of revenue.

(b) Total revenues at present rates and at requested rates.

(c) Requested revenue change in percentage, in total, and by major customer class.

(d) Requested revenue change in dollars, in total, and by major customer class.

(e) Requested rate change in dollars, per average customer, by customer class, or other representation, if necessary to depict representative effect of the request. ~~((Filings))~~ The summary document must also state the effect of the proposed rate increase in dollars per month on typical residential customers by usage categories.

(f) Most current customer count, by major customer class.

(g) Current authorized overall rate of return and authorized rate of return on common equity.

(h) Requested overall rate of return and requested rate of return on common equity, and the method or methods used to calculate rate of return on common equity.

(i) Requested capital structure.

(j) Requested net operating income.

(k) Requested rate base and method of calculation, or equivalent.

(l) Requested revenue effect of attrition allowance, if any is requested.

(5) Required service of summary document. The company must serve the summary document on public counsel and mail the summary document ~~((required))~~ described in subsection (4) of this section to the persons designated below on the same date it files the summary document with the commission:

(a) ~~((Public counsel;~~

~~((b)))~~ All intervenors on the commission's master service list for the company's most recent general rate proceeding;

~~((+))~~ (b) All intervenors on the master service list for any other rate proceeding involving the company during the five years prior to the filing, if the rates established or considered in that proceeding may be affected in the company's proposed general rate filing;

~~((+))~~ (c) All persons who have informed the company in writing that they wish to be provided with the summary document required under this section. The company must enclose a cover letter stating that the prefiled testimony and exhibits and the accompanying work papers, diskettes, and publications specified in this rule are available from the company on request or stating that they have been provided. This provision does not create a right to notice in persons named to receive the summary.

(6) Cost studies. The company must ~~((include))~~ file with the commission any cost studies it performed or relied on to prepare its filing, identify all cost studies conducted in the last five years for any of the company's services, and describe the methodology used in such studies.

(7) Other. The company must ~~((include))~~ file with the commission its most recent annual report to shareholders, if any, and any subsequent quarterly reports to shareholders; the most recent FERC Form 1 and FERC Form 2, if applicable; and the company's Form 10K's, Form 10Q's, any prospectuses for any issuances of securities, and quarterly reports to stockholders, if any, for the most recent two years prior to the filing date.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-630 Telecommunications companies— Arbitration under the Telecommunications Act of 1996.

(1) **Scope.** This rule implements the arbitration provisions of sections 251 and 252 of the Telecommunications Act of 1996, 47 U.S.C. §§ 251 and 252.

(2) **Nature of the proceeding.** Arbitrations that the commission conducts pursuant to 47 U.S.C. § 252 are subject to judicial review. Arbitration under this section, however, is not an adjudicative proceeding under the Washington Administrative Procedure Act, chapter 34.05 RCW. Arbitration decisions are binding only upon the parties to the arbitration. Arbitration under this section should be characterized by fairness, cooperation and openness between or among the parties, and is designed to resolve disputes efficiently and economically.

(3) **Intervention; public counsel.** Arbitrations typically involve only the parties to the negotiation. Others may ask to participate but will be allowed to do so only upon a showing of compelling public interest. The public counsel section of the office of attorney general may elect to participate pursuant to RCW 80.04.510.

(4) **Filing and service of a petition for arbitration.**

(a) **When allowed.** During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under 47 U.S.C. § 252 (b)(1), any party to the negotiation may petition the commission to arbitrate all issues that remain unresolved. Parties may continue to negotiate in good faith and may continue to participate in mediation to resolve the disputed issues after arbitration is requested.

(b) **Filing.** Parties must file petitions for arbitration under section 252 (b)(2) as provided for other petitions under WAC 480-07-145, and must follow the format requirements for pleadings in WAC 480-07-395.

(c) **Service.** A party that files a petition for arbitration must deliver a complete copy of the petition and all accompanying documentation to the other party or parties to the negotiation on the same day that the petition is filed with the commission.

(5) **Contents of petition and documentation.** A petition for arbitration filed under this section must:

(a) State the date on which the original request for negotiation was received, and the dates one hundred thirty-five days and one hundred sixty days after the request was received;

(b) Include a brief statement of each unresolved issue and a summary of each party's position with respect to each issue;

(c) State all proposed rates or charges, if prices are in dispute, and all relevant cost studies and related supporting materials that are available to the petitioner;

(d) State any conditions that the petitioning party requests be imposed;

(e) Recommend any information that the arbitrator should request from the parties pursuant to 47 U.S.C. § 252 (b)(4)(B), including an explanation of why the information is necessary for the arbitrator to reach a decision on the unresolved issues; and

(f) Be accompanied by all relevant documentation including:

(i) A current draft of the interconnection agreement, if available, with all agreed provisions in standard typeface and all unresolved issues in bold typeface;

(ii) A legal brief that addresses the disputed issues, including discussion of how the parties' positions, and any conditions requested, meet or fail to meet the requirements of 47 U.S.C. §§ 251 and 252, any applicable FCC regulations, and any applicable regulation, order, or policy of this commission; and

(iii) Any other documents relevant to the dispute, including copies of all documents the petitioner relies on to support its positions or that it intends to introduce as exhibits at the hearing.

(6) **Filing and service of an answer to a petition for arbitration.**

(a) **When allowed.** Any party to the negotiation may respond to a petition for arbitration and may file with the commission such additional information as it wishes within twenty-five days after the petition is filed.

(b) **Filing.** Answers to petitions for arbitration under section 252 (b)(2) must be filed with the commission in the manner provided for answers to other petitions under WAC 480-07-145, and must follow the format requirements for pleadings under WAC 480-07-395.

(c) **Service.** A party responding to a petition for arbitration must deliver to the petitioner and any other party or parties to the negotiation a complete copy of the answer and all accompanying documentation on the same day that the response is filed with the commission.

(7) **Contents of answer and required documentation.** An answer to a petition for arbitration filed under this section must:

(a) State whether the respondent disputes the date the petitioner asserts was the date on which the respondent received the original request for negotiation, or disputes any subsequent dates stated in the petition in conformance with subsection (5)(a) of this section;

(b) Include a brief statement of each unresolved issue and a summary of each party's position with respect to each issue;

(c) State all proposed rates or charges, if prices are in dispute, and all relevant cost studies and related supporting materials that are available to the respondent;

(d) State any conditions that the responding party requests be imposed;

(e) Recommend any information that the arbitrator should request from the parties pursuant to 47 U.S.C. § 252 (b)(4)(B), including an explanation of why the information is necessary for the arbitrator to reach a decision on the unresolved issues; and

(f) Be accompanied by all relevant documentation including:

(i) A current draft of the interconnection agreement, if available and different from any draft agreement submitted with the petition, with all agreed provisions in standard typeface and all unresolved issues in bold typeface;

(ii) A legal brief that addresses the disputed issues, including discussion of how the parties' positions, and any

conditions requested, meet or fail to meet the requirements of 47 U.S.C. §§ 251 and 252, any applicable FCC regulations, and any applicable regulation, order, or policy of this commission; and

(iii) Any other documents relevant to the dispute, including copies of all documents the respondent relies on to support its positions or that it intends to introduce as exhibits at the hearing.

(8) **Verification.** The petition, answer, and all documentation filed must be verified as provided by WAC 480-07-395, or submitted by affidavit or declaration.

(9) **Confidentiality; protective order.** Petitions, answers, and any documents a party provides to the commission pursuant to a request under section 252 (b)(4)(B) are subject to Washington's public disclosure laws, including chapter ((42.17)) 42.56 RCW and RCW 80.04.095. Confidential information submitted with a petition for arbitration or answer is subject to the protections and procedures set out in WAC 480-07-160. A party may include in its petition or response a request that the commission enter a protective order.

(10) **Discovery.** Parties must cooperate in good faith in the voluntary, prompt and informal exchange of all documents and other information relevant to the disputed issues, subject to claims of privilege or confidentiality. A party's failure to cooperate in discovery may be treated as a failure to negotiate in good faith. The arbitrator will schedule a discovery conference for a date ten days after the deadline for responses to the petition for arbitration, subject to rescheduling or cancellation if all parties agree. During the conference, the arbitrator will review the asserted need for any additional discovery, including requests for information by the arbitrator pursuant to 47 U.S.C. § 252 (b)(4)(B). Parties may submit to the arbitrator any discovery requests not responded to by the time of the conference and request that the arbitrator order the discovery. The arbitrator or the commission may request information from the parties pursuant to 47 U.S.C. § 252 (b)(4)(B) at any time.

(11) **Appointment and authority of arbitrator.**

(a) **Appointment.** One or more commissioners, one or more commission employees appointed by the commission, or one or more persons under contract with the commission may be designated as arbitrator(s) when a petition for arbitration is filed. The commission will not appoint an arbitrator who previously mediated a dispute between the same parties concerning the same interconnection agreement, unless the parties consent in writing or no other arbitrator is available to the commission. The commission will advise the parties of the appointment by entry of an order on arbitration procedure. The commission, in its discretion, may permit parties to comment on the selection of the arbitrator.

(b) **Authority.** Arbitrators will exercise all authority reasonable and necessary to conduct arbitration under the provisions of this rule, the commission's orders on arbitration procedure, and other provisions of law. Other members of the commission's staff may assist an arbitrator, but a staff member who has acted as a mediator with respect to the same interconnection agreement between the same parties may not be consulted. The arbitrator will issue the arbitrator's report within one hundred ten days after the date on which the peti-

tion for arbitration was filed. The arbitrator's report satisfies the commission's responsibility to resolve the disputed issues under 47 U.S.C. § 252 (b)(4)(C).

(12) **Consolidation.** The commission or an arbitrator may consolidate arbitration proceedings to reduce burdens on telecommunications carriers, parties to arbitration proceedings, and the commission.

AMENDATORY SECTION (Amending Docket A-050802, General Order R-536, filed 7/27/06, effective 8/27/06)

WAC 480-07-900 Open public meetings. (1) **Regular meetings.** The commission will hold regular meetings to conduct business under chapter 42.30 RCW, the Open Public Meetings Act. The commission generally schedules two business meetings per month, usually on ((Wednesday)) Thursday at 9:30 a.m. in the commission's office in Olympia, Washington. The specific time and place of each business meeting are published, as required, in the *Washington State Register* and on the commission's internet web site. The commission may cancel a meeting or change the time or place of a meeting and will publish a notice of these changes on its web site.

(2) **Special meetings.** The commission may convene special meetings under RCW 42.30.080.

(3) **Recessed meetings.** The commission may recess a regular or special meeting and reconvene it at a different time or location.

(4) **Agenda.** The commission will distribute an agenda for each regular business meeting. The commission will make its best effort to compile and publish a complete agenda. It may amend its agenda after it is published and may take up matters that do not appear on its published agenda. The agenda and any addendum are posted to the commission's internet site. The commission will provide a copy of the agenda via U.S. mail on request.

(a) **"Discussion" agenda.** The discussion agenda includes items that are scheduled for discussion and action by the commissioners. This part of the agenda is further divided into "utilities" and "transportation" sections.

(b) **"No action" agenda.** The no-action agenda includes items that appear to be noncontroversial and, by law, may take effect without action by the commission. Any item on the no-action agenda will be moved to the discussion agenda at the request of any commissioner. The commission may take such action on the item as it deems appropriate.

(c) **"Consent" agenda.** The consent agenda includes items that appear to be noncontroversial and, by law, require action by the commission to take effect. Any item on the consent agenda will be moved to the discussion agenda at the request of any commissioner. The commission will act on the items on the consent agenda by a single motion and a single vote of the commission.

(5) **Deadlines and schedules.**

(a) The commission generally schedules items for consideration at the last regular business meeting before the item would take effect by law. The commission generally schedules items without a stated effective date, such as petitions, for consideration thirty days after filing.

(b) If a company makes a filing and requests action by the commission before the statutory or required notice period is complete, the commission will schedule consideration of the request at its next regular business meeting, if the request is filed and complete at least ~~((five))~~ seven business days before the meeting. Items filed less than ~~((five))~~ seven business days before a meeting will generally be scheduled for the second business meeting after the filing.

(c) All written comments in response to an open meeting item must be filed with the commission three business days in advance of the meeting. Persons are not required to file written comments about an open meeting item to make oral comments at the meeting.

(d) The commission will publish the agenda for each regular business meeting two business days before the meeting.

~~((d))~~ (e) The commission may publish an addendum to the agenda prior to the beginning of the meeting.

(6) **Staff contact.** For each item on the discussion agenda, the commission designates a staff member who is assigned to analyze and present a recommendation to the commission at the open meeting. The staff person and a contact number are identified in the agenda. Persons interested in open meeting agenda items may discuss them with staff, subject to time availability.

(7) **Public comment.** The commission will provide an opportunity at the beginning of each business meeting for members of the public to request that items on the consent or no-action sections of the agenda be moved to the discussion section. The commission will provide an opportunity for public comment on each discussion agenda item before taking action on that item.

(8) **Orders.** The commission may direct the secretary to enter any order or sign any document necessary to implement an open meeting decision by the commissioners.

(9) **Modifications.** The commission may exercise its discretion to modify the procedures in this section when appropriate to the conduct of its business.

AMENDATORY SECTION (Amending Docket A-060357, General Order No. R-538, filed 8/21/06, effective 9/21/06)

WAC 480-07-904 Delegation of authority to the executive secretary to decide certain matters. (1) The commission delegates the following matters to the executive secretary for decision. The executive secretary's decision shall take effect immediately on entry of an order or on a later date specified in the order, without prior notice. The executive secretary may set any particular matter for decision by the commission through either the open meeting process or an administrative process the commission otherwise employs. Upon request, the commission will review the matter under subsection (3) of this section at a commission open meeting.

(a) Applications for funding highway-railroad grade crossing improvements under the grade crossing protection fund for applications under WAC 480-62-405 (1)(a).

(b) Petitions for approval of changes to existing highway-railroad grade crossings, including installation or modification of signals; reconstruction of the crossing; or implementation of changes in design or construction.

(c) Applications by water companies for removal from regulation or for the commission to exercise regulation under RCW 80.04.010.

(d) Applications for approval of:

(i) Fully negotiated telecommunications interconnection agreements; and

(ii) Adoptions of existing interconnection agreements.

(e) Applications for less than statutory notice approval of transportation company fuel surcharges and requests for rate increases limited to passing through costs that are authorized for pass-through, such as tipping fees.

(f) Requests for a commission order establishing that a securities filing complies with RCW 80.08.040.

(g) Requests for assignment or management of telephone number resources.

(h) Petitions for mitigation of penalties when the petitioner does not request a hearing, or when commission staff supports the request for mitigation.

(i) Requests for approval of service area agreements.

(j) ~~((Requests))~~ Petitions for exemption to allow extensions of time to make filings under deadlines set by rule or order, not including deadlines established in an adjudication.

(k) Requests for registration as a telecommunications company in Washington.

(l) Requests by telecommunications companies for authorization of transfers of property under WAC 480-143-120 (Transfers of property) or determination under WAC 480-143-180 (Disposal and determination of necessary and useful property) that property is not necessary or useful to perform public duties and may be disposed, limited to property that has a market value that does not exceed either one percent of the company's rate base, last established by commission order, or two hundred thousand dollars, whichever is greater.

(2) **Notice.** The commission will post on its internet web site for at least fourteen days a listing of all matters decided pursuant to subsection (1) of this section, showing the docket number, date of entry of decision, company name and last date for a request for review to be filed. The commission will regularly publish electronic notice of listings to persons requesting such notice. Any person may request notice by alternative means.

(3) **Opportunity for review.**

(a) Delegated matters, generally. Any affected person may ask the commission to review any matter delegated under subsection (1) of this section. A person seeking review must file his or her request for commission consideration no later than the fourteenth day after the date of the posting. The commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. The commission will provide a form for this purpose on the commission's web site. The commission will schedule a request for review promptly for consideration and will notify the affected company, and any person requesting review, of the time and place of the open meeting at which review will be taken.

(b) Orders suspending or canceling permits. Carriers seeking review of orders suspending or canceling a permit for failure to maintain evidence of required insurance coverage.

or for other circumstances specified in WAC 480-07-905, must request an adjudicative or brief adjudicative proceeding under WAC 480-07-610.

AMENDATORY SECTION (Amending Docket A-060357, General Order No. R-538, filed 8/21/06, effective 9/21/06)

WAC 480-07-905 Delegation of authority to executive secretary to enter *ex parte* orders. The commission authorizes the executive secretary to enter the following *ex parte* orders in the name of the commission in nonadjudicative matters. Notice of the order will be published, and responses must follow the procedure outlined, in WAC 480-07-904 (2) and (3), except that carriers seeking review of orders suspending or canceling a permit for failure to maintain evidence of required insurance coverage, or other circumstance specified in subsections below, must request an adjudicative or brief adjudicative proceeding under WAC 480-07-610.

(1) ~~((Motor freight carriers, chapter 480-14 WAC, (excluding household goods carriers):~~

~~(a) Orders and permits authorizing intrastate transportation of general commodities, materials transported by armored car, or hazardous materials if the applicant satisfies the requirements of chapter 480-14 WAC.~~

~~(b) Orders and permits authorizing or reflecting change of carrier name and business structure if the carrier satisfies the requirements of chapter 480-14 WAC.~~

~~(c) Orders and permits reinstating previously held authority if the carrier meets the requirements of chapter 480-14 WAC.~~

~~(d) Orders suspending and/or canceling a permit if the carrier fails to show that it has the required level of insurance in effect for its operations. The order will inform the carrier:~~

~~(i) That the permit may be reinstated prior to cancellation if the carrier corrects conditions leading to suspension; and~~

~~(ii) That the carrier may contest the suspension and/or cancellation by requesting an adjudication or brief adjudication.~~

~~(e) Orders permanently canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension, and fails to request an adjudication or brief adjudication.~~

~~(f) Orders permanently canceling permit authority or dismissing an application by request of carrier or applicant.~~

~~(g) Orders dismissing an application after notice to the applicant of failure to meet the requirements of chapter 480-14 WAC.~~

~~(2)) Household goods carriers, chapter 480-15 WAC.~~

~~(a) ((Permit authority granted by a commission order authorizing)) Orders granting authority and permits for permanent, provisional or temporary intrastate transportation of household goods.~~

~~(b) ((Orders and permits authorizing permanent intrastate transportation of household goods if the applicant satisfies the requirements of chapter 480-15 WAC.~~

~~(e)) Orders and permits authorizing or reflecting change of a carrier's permit name, corporate name, trade name, or addition of a trade name.~~

~~((d)) (c) Orders authorizing voluntary suspension of permit authority if the carrier satisfies the requirements of chapter 480-15 WAC.~~

~~((e)) (d) Orders reinstating voluntarily suspended permit authority if the carrier satisfies the requirements of chapter 480-15 WAC.~~

~~((f)) (e) Orders permanently canceling permit authority or dismissing application by request of carrier or applicant.~~

~~((g)) (f) Orders suspending ((and/or canceling)) a permit if the carrier fails to maintain evidence of required cargo and/or liability insurance coverage. Such orders will inform the carrier that a permit may be reinstated if the carrier corrects conditions leading to suspension and that the carrier may contest the suspension ((and/or cancellation)) by requesting an adjudicative or brief adjudicative proceeding.~~

~~((h)) (g) Orders vacating suspension of a permit if the commission receives the insurance filing during the suspension period and orders of abeyance if the carrier requests a hearing or brief adjudicative proceeding.~~

~~((i)) (h) Orders canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension, and fails to request a hearing or brief adjudicative proceeding, during the suspension period.~~

~~((j)) (i) Orders reinstating previously canceled permit authority if the carrier satisfies the requirements of chapter 480-15 WAC.~~

~~((k)) (j) Orders rejecting or denying applications for temporary authority if WAC 480-15-285 applies.~~

~~((l)) (k) Orders rejecting or denying applications for permit authority under WAC 480-15-320 or 480-15-330, or canceling a permit if the carrier does not satisfy conditions for granting authority, or for good cause under WAC 480-15-450.~~

(2) Solid waste collection companies—Specialized, chapters 81.77 RCW and 480-70 WAC.

(a) Orders and permits authorizing intrastate solid waste collection services involving unprotected applications in territory not served by any existing carrier.

(b) Orders and permits authorizing change of carrier's corporate name, trade name, or addition of a trade name.

(c) Orders and permits approving unprotected applications to transfer or lease certificate.

(d) Orders suspending a permit if the carrier fails to maintain evidence of the required liability insurance coverage. The order will inform the carrier that the permit may be reinstated if the carrier corrects the conditions leading to suspension and that the carrier may contest the suspension by requesting an adjudication or brief adjudicative proceeding.

(e) Orders vacating suspension of permit if the commission receives the carrier's insurance filing during the suspension period and orders of abeyance if the carrier requests ~~((an adjudication))~~ a hearing or brief adjudicative proceeding.

(f) Orders canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension, and fails to request a hearing or brief adjudicative proceeding, during the suspension period.

(g) Orders reinstating a permit canceled for cause if the conditions for reinstatement in chapter 480-70 WAC and in the order of cancellation are met.

(h) Orders dismissing application or canceling permit authority by request of applicant or carrier.

~~((4))~~ **(3) Solid waste collection companies—Traditional, chapters 81.77 RCW and 480-70 WAC.**

(a) Orders and permits authorizing intrastate solid waste collection services involving unprotested applications in territory not served by an existing carrier.

(b) Orders and permits authorizing change of carrier's name, trade name or addition of a trade name.

~~((5))~~ (c) Orders suspending a permit if the carrier fails to maintain evidence of the required level of insurance in effect for its operations. The order will inform the carrier that the permit may be reinstated if the carrier corrects the conditions leading to suspension and that the carrier may contest the suspension by requesting a hearing or brief adjudicative proceeding.

(d) Orders vacating suspension of a permit if the commission receives the carrier's insurance filing during the suspension period and orders of abeyance if the carrier requests a hearing or brief adjudicative proceeding.

(e) Orders canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension, and fails to request a hearing or brief adjudicative proceeding, during the suspension period.

(f) Orders reinstating a permit canceled for cause if the conditions for reinstatement in chapter 480-70 WAC and in the order of cancellation are met.

(g) Orders dismissing application or canceling permit authority by request of applicant or carrier.

(4) Private, nonprofit transportation providers, chapter 480-31 WAC.

(a) Orders and permits authorizing intrastate transportation of persons with special needs.

(b) Orders and permits authorizing sale, assignment, lease, acquisition or transfer.

(c) Orders suspending a permit if the carrier fails to maintain evidence on file that it has the required level of insurance in effect for its operations. The order must inform the carrier that the permit may be reinstated if the carrier corrects the conditions leading to suspension and that the carrier may contest the suspension by requesting a hearing or brief adjudicative proceeding.

(d) Orders vacating suspension of a permit if the commission receives an insurance filing during the suspension period and orders of abeyance if the carrier requests a hearing or brief adjudicative proceeding.

~~((6))~~ (e) Orders canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension, and fails to request a hearing or brief adjudicative proceeding, during the suspension period.

(f) Orders reinstating a permit canceled for cause if the conditions for reinstatement in chapter 480-31 WAC and in the order of cancellation are met.

(g) Orders dismissing application or canceling permit authority by request of applicant or carrier.

(5) Charter and excursion busses, chapter 480-40 WAC.

(a) Orders and permits authorizing intrastate transportation of passengers by charter or excursion.

(b) Orders suspending permit if the carrier fails to show that it has the required level of insurance in effect for its operations. The order will inform the carrier that the permit may be reinstated if the carrier corrects the conditions leading to suspension and that the carrier may contest the suspension by requesting a hearing or brief adjudicative proceeding.

(c) Orders vacating suspension of permit if the commission receives an insurance filing during the suspension period or orders of abeyance if the carrier requests a hearing or brief adjudicative proceeding.

(d) Orders canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension and fails to request a hearing or brief adjudicative proceeding during the suspension period.

(e) Orders canceling permit authority or dismissing an application by request of the carrier or applicant.

(f) Orders dismissing application after due notice to applicant for failure to meet the requirements of chapter 480-40 WAC.

(g) Orders authorizing lease, assignment, or transfer of permit authority.

~~((7))~~ **(6) Auto transportation companies, chapter 81.68 RCW.**

(a) Orders and permits authorizing intrastate, intercity transportation of passengers involving unprotested applications to serve routes not served by any existing carrier and that do not fall within the boundaries of a transit district.

(b) Orders and permits involving name changes, including trade names.

~~((8))~~ (c) Orders authorizing lease, assignment, or transfer of permit authority.

(d) Orders suspending a permit if the carrier fails to maintain evidence on file that it has the required level of insurance in effect for its operations. The order will inform the carrier that the permit may be reinstated if the carrier corrects the conditions leading to suspension and that the carrier may contest the suspension by requesting a hearing or brief adjudicative proceeding.

(e) Orders vacating suspension of a permit if the commission receives an insurance filing during the suspension period and orders of abeyance if the carrier requests a hearing or brief adjudicative proceeding.

(f) Orders canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension, and fails to request a hearing or brief adjudicative proceeding, during the suspension period.

(g) Orders reinstating a permit canceled for cause if the conditions for reinstatement in chapter 81.68 RCW and in the order of cancellation are met.

(h) Orders dismissing application or canceling permit authority by request of applicant or carrier.

(7) Commercial ferries, chapter 480-51 WAC.

(a) Orders suspending a certificate if the carrier fails to maintain the required insurance coverage. The order will inform the carrier that the certificate may be reinstated if the carrier corrects the conditions leading to suspension and that the carrier may contest suspension by requesting a brief adjudication or an adjudication.

(b) Orders vacating suspension of a certificate if the carrier corrects conditions leading to suspension and orders of

abeyance if the respondent requests a brief adjudication or an adjudication.

(c) Orders canceling a previously suspended certificate if the carrier fails to correct conditions leading to suspension and fails to timely request an adjudication or brief adjudication.

~~((9))~~ (8) **Temporary transportation authority.** The commission delegates to the executive secretary decisions in applications for temporary motor carrier or solid waste authority. The decision takes effect immediately on entry of an order without prior notice of delegation. An applicant whose application is denied, in whole or in part, may obtain review by requesting an adjudication within twenty days following entry of the order. Commission review of delegated decisions under this provision will be *de novo*.

(9) Cancellation for failure to file annual reports or pay regulatory fees. The commission delegates to the executive secretary notices to regulated companies concerning their failure to timely file annual reports and pay regulatory fees, as well as orders scheduling hearings and canceling registrations or permit authority for failure to comply with commission rules governing annual reports and regulatory fees.

**WSR 08-18-013
PERMANENT RULES
STATE BOARD OF EDUCATION**

[Filed August 22, 2008, 11:37 a.m., effective September 22, 2008]

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

Purpose: The state board of education amended (1) WAC 180-51-060 to indicate that it applies only to those students who entered the ninth grade before July 1, 2004; and (2) WAC 180-51-061 to indicate that it applies only to students who have entered the ninth grade between July 1, 2004, and June 30, 2009. The board adopted a new rule, WAC 180-51-066, that provides the minimum high school graduation requirements for those students entering the ninth grade on or after July 1, 2009. In addition to the current high school graduation requirements, WAC 180-51-066 requires that students entering the ninth credit [grade] on or after July 1, 2009, must complete a third credit of math, i.e. Algebra II or Integrated Mathematics III. The rule allows equivalent CTE mathematics courses meeting the requirements set forth in RCW 28A.230.097 to be taken for credit in satisfaction of this requirement. A student may elect to take a third credit of mathematics other than Algebra II or Integrated Mathematics III upon satisfaction of all of the criteria set forth in the rule. The board adopted the rule in response to the legislative directive in RCW 28A.305.215(8) requiring the state board of education to revise the high school graduation requirements under RCW 28A.230.090 to include a minimum of three credits of mathematics. Language was included in both WAC 180-51-061 and 180-51-066 requiring the completion of a high school and beyond plan as a high school graduation requirement. This graduation requirement is not new. It has been in place for some time but was inadvertently deleted during a prior revision of WAC 180-51-061.

Citation of Existing Rules Affected by this Order: Amending WAC 180-51-060 and 180-51-061.

Statutory Authority for Adoption: RCW 28A.305.215 (8), 28A.230.090.

Adopted under notice filed as WSR 08-13-038 on June 11, 2008.

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 2, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 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: July 24, 2008.

Edith W. Harding
Executive Director

AMENDATORY SECTION (Amending WSR 01-13-112, filed 6/20/01, effective 7/21/01)

WAC 180-51-060 Minimum subject areas for high school graduation—Students entering the ninth grade before July 1, 2004. (1) The minimum subject areas and credits therein shall be:

SUBJECT	CREDIT
English	3
Mathematics	2
Science*	2
Social Studies	2 1/2
United States History and Government	(1)
Washington State History and Government	(1/2)**
Contemporary World History, Geography, and Problems	(1)**
Occupational Education***	1
Physical Education	2
Restricted Elective	**** 1

*At least one credit of the two science credits shall be in a laboratory science.

**See WAC 180-51-075 for equivalencies.

***"Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory

SUBJECT	CREDIT
course as proposed or adopted in the career and technical education program standards of the superintendent of public instruction.	
****This one credit requirement must be selected from visual or performing arts or any of the subject areas listed above.	
Electives	5 1/2
Total	19

(2) The minimum elective credits shall be met by additional courses in the required subject areas, by specific local district requirements, or by any course offered pursuant to WAC 180-50-115.

(3) In accordance with WAC 180-51-035, this section shall expire on June 30, 2014, for those students who begin the equivalent of a four-year high school program prior to July 1, 2004.

(4) The state board of education and superintendent of public instruction are not authorized by law to issue a high school diploma.

AMENDATORY SECTION (Amending WSR 07-07-051, filed 3/14/07, effective 4/14/07)

WAC 180-51-061 Minimum requirements for high school graduation—Students entering the ninth grade as of July 1, 2004 through June 30, 2009. (1) The statewide minimum subject areas and credits required for high school graduation (~~(beginning July 1, 2004,)~~) for students who enter the ninth grade or begin the equivalent of a four-year high school program as of July 1, 2004, through June 30, 2009, shall total 19 as listed below.

(a) Three **English** credits (reading, writing, and communications) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. Assessment shall include the ~~((10th))~~ tenth grade Washington assessment of student learning beginning 2008.

(b) Two **mathematics** credits that at minimum align with mathematics grade level expectations for ninth and tenth grade, plus content that is determined by the district. Assessment shall include the ~~((10th))~~ tenth grade Washington assessment of student learning beginning 2008.

(c) Two **science** credits (physical, life, and earth) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. At least one credit in laboratory science is required which shall be defined locally. Assessment shall include the ~~((10th))~~ tenth grade Washington assessment of student learning beginning 2010.

(d) Two and one-half **social studies** credits that at minimum align with the state's essential academic learning requirements in civics, economics, geography, history, and social studies skills at grade ten and/or above plus content that is determined by the district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in social studies at the high

school level by 2008-09. In addition, districts shall require students to complete a classroom-based assessment in civics in the eleventh or twelfth grade also by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.095). The social studies requirement shall consist of the following mandatory courses or equivalencies:

(i) One credit shall be required in United States history and government which shall include study of the Constitution of the United States. No other course content may be substituted as an equivalency for this requirement.

(ii) Under the provisions of RCW 28A.230.170 and 28A.230.090, one-half credit shall be required in Washington state history and government which shall include study of the Constitution of the state of Washington and is encouraged to include information on the culture, history, and government of the American Indian people who were the first inhabitants of the state.

(A) For purposes of the Washington state history and government requirement only, the term "secondary student" shall mean a student who is in one of the grades seven through twelve. If a district offers this course in the seventh or eighth grade, it can still count towards the state history and government graduation requirement. However, the course should only count as a high school credit if the academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors ~~((-))~~ (RCW 28A.230.090(4) ~~((-))~~).

(B) The study of the United States and Washington state Constitutions shall not be waived, but may be fulfilled through an alternative learning experience approved by the local school principal under written district policy.

(C) Secondary school students who have completed and passed a state history and government course of study in another state may have the Washington state history and government requirement waived by their principal. The study of the United States and Washington state Constitutions required under RCW 28A.230.170 shall not be waived, but may be fulfilled through an alternative learning experience approved by the school principal under a written district policy.

(D) After completion of the tenth grade and prior to commencement of the eleventh grade, eleventh and twelfth grade students who transfer from another state, and who have or will have earned two credits in social studies at graduation, may have the Washington state history requirement waived by their principal if without such a waiver they will not be able to graduate with their class.

(iii) One credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on current problems may be accepted as equivalencies.

(e) Two **health and fitness** credits that at minimum align with current essential academic learning requirements at grade ten and/or above plus content that is determined by the local school district. The assessment of achieved competence

in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in health and fitness at the high school level by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.095).

(i) The fitness portion of the requirement shall be met by course work in fitness education. The content of fitness courses shall be determined locally under WAC 180-51-025. Suggested fitness course outlines shall be developed by the office of the superintendent of public instruction. Students may be excused from the physical portion of the fitness requirement under RCW 28A.230.050. Such excused students shall be required to substitute equivalency credits in accordance with policies of boards of directors of districts, including demonstration of the knowledge portion of the fitness requirement.

(ii) "Directed athletics" shall be interpreted to include community-based organized athletics.

(f) One **arts** credit that at minimum is aligned with current essential academic learning requirements at grade ten and/or above plus content that is determined by the local school district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in arts at the high school level by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.095). The essential content in this subject area may be satisfied in the visual or performing arts.

(g) One credit in **occupational education**. "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as proposed or adopted in the career and technical education program standards of the office of the superintendent of public instruction. The assessment of achieved competence in this subject area is determined at the local district level.

(h) Five and one-half electives: Study in a world language other than English or study in a world culture may satisfy any or all of the required electives. The assessment of achieved competence in these subject areas is determined at the local district level.

(i) Each student shall complete a culminating project for graduation. The project shall consist of the student demonstrating both their learning competencies and preparations related to learning goals three and four. Each district shall define the process to implement this graduation requirement, including assessment criteria, in written district policy.

(j) Each student shall have a high school and beyond plan for their high school experience, including what they expect to do the year following graduation.

(k) Each student shall attain a certificate of academic achievement or certificate of individual achievement. The ~~((10th))~~ tenth grade Washington assessment of student learning and Washington alternate assessment system shall determine attainment.

(2) State board of education approved private schools under RCW 28A.305.130(5) may, but are not required to, align their curriculums with the state learning goals under RCW 28A.150.210 or the essential academic learning requirements under RCW 28A.655.070.

NEW SECTION

WAC 180-51-066 Minimum requirements for high school graduation—Students entering the ninth grade on or after July 1, 2009. (1) The statewide minimum subject areas and credits required for high school graduation, beginning July 1, 2009, for students who enter the ninth grade or begin the equivalent of a four-year high school program, shall total 20 as listed below.

(a) Three **English** credits (reading, writing, and communications) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. Assessment shall include the tenth grade Washington assessment of student learning beginning 2008.

(b) Three **mathematics** credits that align with the high school mathematics standards as developed and revised by the office of superintendent of public instruction and satisfy the requirements set forth below:

(i) Unless otherwise provided for in (b)(iii) of this subsection, the three mathematics credits required under this section must include mathematics courses taken in the following progressive sequence:

(A) Algebra I, geometry, and algebra II; or

(B) Integrated mathematics I, integrated mathematics II, and integrated mathematics III; or

(C) Any combination of three mathematics courses set forth in (b)(i)(A) and (B) of this subsection.

(ii) A student may elect to pursue a third credit of mathematics, other than algebra II or integrated mathematics III if all of the following requirements are met:

(A) The student has completed, for credit, mathematics courses in:

(I) Algebra I and geometry; or

(II) Integrated mathematics I and integrated mathematics II; or

(III) Any combination of two mathematics courses set forth in (b)(ii)(A)(I) and (II) of this subsection;

(B) The student's elective choice is based on a career oriented program of study identified in the student's high school and beyond plan that is currently being pursued by the student;

(C) The student's parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) agree that the third credit of mathematics elected is a more appropriate course selection than algebra II or integrated mathematics III because it will better serve the student's education and career goals;

(D) A meeting is held with the student, the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable), and a high school representative for the purpose of discussing the student's high school and beyond plan and advising the student of the requirements for

credit bearing two and four year college level mathematics courses; and

(E) The school has the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) sign a form acknowledging that the meeting with a high school representative has occurred, the information as required was discussed; and the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) agree that the third credit of mathematics elected is a more appropriate course selection given the student's education and career goals.

(iii) Equivalent career and technical education (CTE) mathematics courses meeting the requirements set forth in RCW 28A.230.097 can be taken for credit instead of any of the mathematics courses set forth in (b)(i)(A) or (B) or (ii)(A)(I) or (II) of this subsection if the CTE mathematics courses are recorded on the student's transcript using the equivalent academic high school department designation and course title.

(c) Two **science** credits (physical, life, and earth) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. At least one credit in laboratory science is required which shall be defined locally. Assessment shall include the tenth grade Washington assessment of student learning beginning 2010.

(d) Two and one-half **social studies** credits that at minimum align with the state's essential academic learning requirements in civics, economics, geography, history, and social studies skills at grade ten and/or above plus content that is determined by the district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in social studies at the high school level by 2008-09. In addition, districts shall require students to complete a classroom-based assessment in civics in the eleventh or twelfth grade also by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.095). The social studies requirement shall consist of the following mandatory courses or equivalencies:

(i) One credit shall be required in United States history and government which shall include study of the Constitution of the United States. No other course content may be substituted as an equivalency for this requirement.

(ii) Under the provisions of RCW 28A.230.170 and 28A.230.090, one-half credit shall be required in Washington state history and government which shall include study of the Constitution of the state of Washington and is encouraged to include information on the culture, history, and government of the American Indian people who were the first inhabitants of the state.

(A) For purposes of the Washington state history and government requirement only, the term "secondary student" shall mean a student who is in one of the grades seven through twelve. If a district offers this course in the seventh or eighth grade, it can still count towards the state history and government graduation requirement. However, the course should only count as a high school credit if the academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a

course offered at a high school in the district as determined by the school district board of directors (RCW 28A.230.090 (4)).

(B) The study of the United States and Washington state Constitutions shall not be waived, but may be fulfilled through an alternative learning experience approved by the local school principal under written district policy.

(C) Secondary school students who have completed and passed a state history and government course of study in another state may have the Washington state history and government requirement waived by their principal. The study of the United States and Washington state Constitutions required under RCW 28A.230.170 shall not be waived, but may be fulfilled through an alternative learning experience approved by the school principal under a written district policy.

(D) After completion of the tenth grade and prior to commencement of the eleventh grade, eleventh and twelfth grade students who transfer from another state, and who have or will have earned two credits in social studies at graduation, may have the Washington state history requirement waived by their principal if without such a waiver they will not be able to graduate with their class.

(ii) One credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on current problems may be accepted as equivalencies.

(e) Two **health and fitness** credits that at minimum align with current essential academic learning requirements at grade ten and/or above plus content that is determined by the local school district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in health and fitness at the high school level by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.095).

(i) The fitness portion of the requirement shall be met by course work in fitness education. The content of fitness courses shall be determined locally under WAC 180-51-025. Suggested fitness course outlines shall be developed by the office of the superintendent of public instruction. Students may be excused from the physical portion of the fitness requirement under RCW 28A.230.050. Such excused students shall be required to substitute equivalency credits in accordance with policies of boards of directors of districts, including demonstration of the knowledge portion of the fitness requirement.

(ii) "Directed athletics" shall be interpreted to include community-based organized athletics.

(f) One **arts** credit that at minimum is aligned with current essential academic learning requirements at grade ten and/or above plus content that is determined by the local school district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in arts at the high school level by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.-

095). The essential content in this subject area may be satisfied in the visual or performing arts.

(g) One credit in **occupational education**. "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as proposed or adopted in the career and technical education program standards of the office of the superintendent of public instruction. The assessment of achieved competence in this subject area is determined at the local district level.

(h) Five and one-half electives: Study in a world language other than English or study in a world culture may satisfy any or all of the required electives. The assessment of achieved competence in these subject areas is determined at the local district level.

(i) Each student shall complete a culminating project for graduation. The project shall consist of the student demonstrating both their learning competencies and preparations related to learning goals three and four. Each district shall define the process to implement this graduation requirement, including assessment criteria, in written district policy.

(j) Each student shall have a high school and beyond plan for their high school experience, including what they expect to do the year following graduation.

(k) Each student shall attain a certificate of academic achievement or certificate of individual achievement. The tenth grade Washington assessment of student learning and Washington alternate assessment system shall determine attainment.

(2) State board of education approved private schools under RCW 28A.305.130(5) may, but are not required to, align their curriculums with the state learning goals under RCW 28A.150.210 or the essential academic learning requirements under RCW 28A.655.070.

WSR 08-18-016

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed August 25, 2008, 9:12 a.m., effective September 25, 2008]

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

Purpose: General Note: With this rule making, the board implemented the revisions to chapter 18.04 RCW passed through the 2008 legislative session (SSB 6604). SSB 6604 enhanced the mobility of certified public accountants (CPAs) and required the licensing of out-of-state firms providing audit or opinion-type services.

The board modified the rules to:

- Include out-of-state individuals and firms and the employees of those persons.
- Remove references to practice privileges as it currently exists because notification and fees no longer apply.
- Remove references to the exclusion of out-of-state sole practicing CPAs from the licensing requirements.
- Make ethics and prohibited practices found in board rules applicable to all persons including persons exercising practice privileges.
- Remove reference in the rules that "notices" will be mailed on January 1. This is an agency policy issue not a requirement of regulated persons.
- Clarify that the validation of license status or status as a CPA-Inactive certificateholder, or resident non-licensee firm owner occurs at the time the license number is entered into the board's licensee database and available for public confirmation.

Additionally, the board revised language to:

- Promote clarity.
- Ensure effective communication.
- Ensure fairness in interpretation and application of the rules.
- Promote efficiencies through minimizing gray areas.

WAC section:	The revision:
4-25-400	Clarifies that the board sets the qualifications to be a licensee of Washington state. The board does not set the qualifications to be a licensee in any other state.
4-25-410	For ease of reference and consistency, the board incorporated definitions appearing in RCW 18.04.025 into its rules. Subsection: (2) "Active individual participant" - changes reference from "natural person" to "individual" to coincide with definition in RCW 18.04.025 changed by SSB 6604. (4)(a) Clarifies that the CPA examination is the uniform examination used by all United States jurisdictions. (4)(b) Changes applicant for "CPA" license to an applicant for an "individual" license to distinguish from a "firm." (4)(b) Adds "initial" to distinguish from a renewal or reinstatement applicant. (4)(b) Removes reference to "practice privileges." SSB 6604 eliminated the requirement for out-of-state CPAs to notify the Washington state board of [accountancy] intent to practice. (4)(d) Adds practice privileges to applicants for reinstatement. (5) Replaces the definition of "attest services" for consistency with the definition of "attest" in RCW 18.04.025 as amended by SSB 6604.

WAC section:	The revision:
	<p>(6) Points the reader to the definition of "licensee" in this same section.</p> <p>(10) "Client" - clarifies that the definition is applicable to all licensees, certificate holders, and nonlicensee owners regulated by the board and entities affiliated with a licensed firm, being retained to perform "professional services."</p> <p>(11)(a) Points the reader to the definition of "licensee" in this same section and clarifies that the definition is applicable to all licensees, certificate holders, and nonlicensee owners of a licensed firm regulated by the board and persons affiliated with a licensed firm.</p> <p>(12) Adds the definition for "compilation" from SSB 6604 for consistency and ease of reference.</p> <p>(14) Changes "person" to "individual" to coincide with the definitions in SSB 6604. This provides clarification that a CPA is a living, human being rather than a nongovernmental organization or business entity. Clarifies that a CPA includes individuals exercising practice privileges as referenced in RCW 18.04.350(2).</p> <p>(15) Changes "person" to "individual" to coincide with the definitions in SSB 6604.</p> <p>Formerly (16) "Entering the state" deleted. SSB 6604 eliminated the reference to entering the state. This definition is no longer needed.</p> <p>(17) "Firm" - adds reference to Washington state law under which limited liability companies or partnerships, or professional service corporations are formed to provide an index to the reader.</p> <p>(20) Removes "firm" from the definition because the definition of "person" in SSB 6604 includes firms.</p> <p>(21) Adds the definition for "home office" from SSB 6604 for consistency and ease of reference.</p> <p>(22) "Inactive" - changes "person" to "individual" to coincide with the definitions in SSB 6604. This rule is applicable to living, human beings rather than nongovernmental organizations or business entities.</p> <p>(23) Adds the definition for "individual" from SSB 6604 for consistency and ease of reference.</p> <p>(24) "Independence" - changes "attest" to "professional" services. Professional services include compilations which are not considered "attest" services under the definition included in SSB 6604. Independence is required when professional standards require a report expressing assurance.</p> <p>(27) Changes "accountancy" to "accounting" to coincide with definition of the "practice of public accounting" in RCW 18.04.025.</p> <p>(28) Clarifies that "licensee" includes those out-of-state individuals and firms referenced in the Public Accountancy Act as amended by SSB 6604.</p> <p>Formerly (29) "Natural person" deleted. SSB 6604 changed the definition of "natural person" to "individual." See (23) above.</p> <p>(30) Clarifies that a "nonlicensee firm owner" is an individual.</p> <p>(33) Adds the definition for "person" from SSB 6604 for consistency and ease of reference.</p> <p>(35) "Practice privileges" - conforms the definition to RCW 18.04.350 as amended by SSB 6604. Adds the consent to the appointment of the issuing state board as agent for the service of process from RCW 18.02.350 (4)(d).</p> <p>(36) "Principal place of business" - replaces the definition with the definition in RCW 18.04.025 as amended by SSB 6604.</p> <p>(38) "Quality assurance review" - replaces attest work with "audit, compilation and review and other professional services for which a report expressing assurance is prescribed by professional standards" to reflect board rule, WAC 4-25-820 that includes compilation and other attestation standards. SSB 6604 removed compilation from the definition of attest.</p> <p>(41) "Reports on financial statements" - conforms the definition to the definition found in RCW 18.04.025 and as amended by SSB 6604. Expanded to include other attestation standards as established by board rule, WAC 4-25-820.</p> <p>(42) "Representing oneself" - conforms the definition to the board's current interpretation.</p> <p>(43) "Rules of professional conduct" - changes CPA and CPA firm to "licensee" as defined by the board. With this change this definition is applicable to those out-of-state individuals and firms exercising practice privileges.</p> <p>(45) "Sole proprietorship" - new definition to distinguish an individual from a firm. A proprietorship is a legal form of organization.</p> <p>(46) "State" - adds the Commonwealth of the Northern Mariana Islands to conform to the definition of "state" in RCW 18.04.025 as amended by SSB 6604.</p>

WAC section:	The revision:
4-25-520	<ul style="list-style-type: none"> • Removes the reference to individuals granted practice privileges. SSB 6604 eliminated the requirement for out-of-state individuals to notify the board when practicing in Washington state. Therefore, the board will no longer grant practice privileges or track such notification. • Changes "rule files" to "rule-making files" to better describe this public record that the board maintains.
4-25-521	<ul style="list-style-type: none"> • Adds the board's physical address for information purposes. • Changes the board's e-mail address for information purposes.
4-25-540	<p>(1) - (6) Adds "staff" to clarify that staff makes the initial decision and denial. The executive director does not participate in the initial decision.</p> <p>(7) Conforms language to RCW 18.04.420.</p>
4-25-550	<p>Adds language to clarify that individuals and firms in Washington state must comply with this rule. Individuals and firms exercising practice privileges as reflected in SSB 6604 are not required to provide any notification of address changes to the board.</p>
4-25-551	<p>Adds language to clarify that individuals and firms exercising practice privileges as reflected in SSB 6604 are required to respond to board inquiry in addition to individuals and firms licensed in Washington state.</p>
4-25-610	<p>Chapter 18.04 RCW authorizes the board to prescribe rules of professional conduct for all licensees, certificate holders, and nonlicensee owners of licensed firms, in order to establish and maintain high standards of competence and ethics.</p> <ul style="list-style-type: none"> • Replaces CPA and CPA firm with "licensee." With this change, the definition is also applicable to those out-of-state individuals and firms exercising practice privileges to conform with the amendments to chapter 18.04 RCW by SSB 6604. • Adds employees of regulated persons. This clarifies that a licensee, CPA-Inactive certificateholder, or nonlicensee firm owner may not conduct themselves unprofessionally through their employees.
4-25-620	<p>Chapter 18.04 RCW authorizes the board to prescribe rules of professional conduct for all licensees, certificate holders, and nonlicensee owners of licensed firms, in order to establish and maintain high standards of competence and ethics.</p> <ul style="list-style-type: none"> • Replaces CPA and CPA firm with "licensee." With this change, the definition is also applicable to those out-of-state individuals and firms exercising practice privileges to conform with the amendments to chapter 18.04 RCW by SSB 6604. • Adds employees of regulated persons. This clarifies that a licensee, CPA-Inactive certificateholder, or nonlicensee firm owner may not conduct themselves unprofessionally through their employees.
4-25-622	<ul style="list-style-type: none"> • Replaces CPA and CPA firm with "licensee." With this change, the definition is also applicable to those out-of-state individuals and firms exercising practice privileges to conform with the amendments to chapter 18.04 RCW by SSB 6604. • Adds CPA-Inactive certificateholders, nonlicensee firm owners, and employees. This clarifies that a licensee may not conduct themselves unprofessionally through their employees. • Replaces "attest" with "professional services for which a report expressing assurance is prescribed by professional standards." SSB 6604 revised the definition of attest to exclude compilations. Independence is required for compilations if the report does not disclose a lack of independence.
4-25-626	<ul style="list-style-type: none"> • Replaces CPA, CPA-Inactive certificateholder, firm owner, or licensed firm with "licensees and/or their employees." The rule, in part, prohibits licensees and their employees from receiving commissions, referral fees, and contingent fees [fees] when rendering "attest" or "compilation" services. Only licensees are authorized to perform compilation, or other professional services for which a report expressing assurance is prescribed by professional standards. • Commissions, referral fees, and contingent fees are permitted by all regulated persons when attest and compilation services are not provided and prescribed disclosure is made. • Replaces "attest" with "compilation, or other professional services for which a report expressing assurance is prescribed by professional standards.[]" SSB 6604 revised the definition of attest to exclude compilations. • Removes redundant repetitive language.

WAC section:	The revision:
4-25-630	<ul style="list-style-type: none"> • Replaces CPA and CPA firm with "licensee." With this change, the definition is also applicable to those out-of-state individuals and firms exercising practice privileges to conform with the amendments to chapter 18.04 RCW by SSB 6604. • Adds employees of regulated persons. This clarifies that a licensee, CPA-Inactive certificateholder, or nonlicensee firm owner may not conduct themselves in an incompetent manner through their employees. • Clarifies that the service provided is a professional service.
4-25-631	<ul style="list-style-type: none"> • Replaces CPA and CPA firm with "licensee." With this change, the definition is also applicable to those out-of-state individuals and firms exercising practice privileges to conform with the amendments to chapter 18.04 RCW by SSB 6604. • Specifically, includes individuals exercising practice privileges or firms exercising practice privileges through an individual. • Adds employees of regulated persons. This clarifies that a licensee, CPA-Inactive certificateholder, or nonlicensee firm owner may not disregard rules, regulations and professional standards through their employees. • Corrects grammar. • Adds documentation requirements for individuals and firms when professional services are governed by standards not listed in the rule. • Removes the note that the standards may be inspected at the board's office.
4-25-640	<ul style="list-style-type: none"> • Adds CPA-Inactive certificateholder, and nonlicensee firm owner. These regulated individuals may provide those services described in RCW 18.04.350(10). When the CPA-Inactive certificateholder and nonlicensee firm owner provide those services, they are bound by the requirements concerning records and client confidential information. • Adds "nonlicensee" to all references to firm owner to conform the rule to RCW 18.04.195. Other firm owners are included in the definition of licensee. • Adds "compilation or other reporting services governed by professional standards" to "attest" to reflect board rule, WAC 4-25-820 that includes compilation and other attestation services. SSB 6604 eliminated "compilation" from the definition of attest.
4-25-650	<ul style="list-style-type: none"> • Replaces CPA and CPA firm with "licensee." With this change, the definition is also applicable to those out-of-state individuals and firms exercising practice privileges to conform with the amendments to chapter 18.04 RCW by SSB 6604. • Adds employees of regulated persons. This clarifies that a licensee, CPA-Inactive certificateholder, or nonlicensee firm owner may not act in a discreditable manner through their employees. • Numbers the list of discreditable acts for ease of reference.
4-25-660	<ul style="list-style-type: none"> • Replaces CPA and CPA firm with "licensee." With this change, the definition is also applicable to those out-of-state individuals and firms exercising practice privileges to conform with the amendments to chapter 18.04 RCW by SSB 6604. • Removes requirement for regulated community to post status statement on web site. The requirement is overly restrictive with the concept of mobility and no notice.
4-25-670	<ul style="list-style-type: none"> • (1) Eliminates the requirement to use a form to report enforcement actions. • (2) Verbiage change for clarity. • (3) Adds clarifying language to avoid inconsistency with subsection (2).
4-25-735	<ul style="list-style-type: none"> • Changes the agency's legacy practice of requiring signed forms. This change will facilitate the agency's eventual move to online application. • Changes the effective date of licensure as implied by current rule: Current agency guidance is that the license is not valid until the applicant receives a hard copy in the mail. However, once posted to the board database the license is effective.
4-25-745	<ul style="list-style-type: none"> • Clarifies that the rule only applies to individuals as opposed to firms. • Changes the agency's legacy practice of requiring signed forms. This change will facilitate the agency's eventual move to online application. • Changes the effective date of licensure as implied by current rule: Current agency guidance is that the license is not valid until the applicant receives a hard copy in the mail. However, once posted to the board database the license is effective.

WAC section:	The revision:
4-25-746	<ul style="list-style-type: none"> • Renumbers for easy reference. • Changes "accountancy" to "accounting" to coincide with definition of the "practice of public accounting" in RCW 18.04.025. • Clarifies that the rule only applies to individuals as opposed to firm. • Adds clarifying language specifying entitlements granted when an individual is granted a license. • Changes the agency's legacy practice of requiring signed forms. This change will facilitate the agency's eventual move to online application. • Changes the effective date of licensure as implied by current rule: Current agency guidance is that the license is not valid until the applicant receives a hard copy in the mail. However, once posted to the board database the license is effective. • Remove references to the exclusion of out-of-state sole practicing CPAs from the licensing requirements.
4-25-747 New Section	For ease of understanding and reference, this proposed rule summaries [summarizes] the practice privileges requirements of SSB 6604 amending RCW 18.04.350.
4-25-750	<ul style="list-style-type: none"> • Removes reference to the exclusion of out-of-state sole practicing CPAs from the firm licensing requirements due to the amendment of RCW 18.04.350 by SSB 6604. • SSB 6604 amended RCW 18.04.195 identifying which entities must obtain firm licenses including out-of-state firms exercising practice privileges. Rather than list the requirements in this rule, the board is proposing a new section, WAC 4-25-753, to summarize the firm licensing and practice privilege requirements for firms. • Removes requirement that all owners must be natural persons to conform to RCW 18.04.195 as amended by SSB 6604. RCW 18.04.195, as amended by SSB 6604, requires a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all owners[,] shall be held by persons who are licensees or holders of a valid license issued under the Public Accountancy Act or by another state. RCW 18.04.025, as amended by SSB 6604, defines "person" to include limited liability companies and corporations. This amendment will bring the board's rule into conformity with RCW 18.04.195 and allow professional limited liability companies or professional corporations to be registered owners of CPA firms provided the professional limited liability company or professional corporation is registered with the board as a CPA firm. • Changes reference from "natural person" to "individual" to coincide with definition in RCW 18.04.025 changed by SSB 6604. • Specifies who on behalf of the firm must apply for an initial firm license, renewal, or amendment. • Changes the agency's legacy practice of requiring signed forms. This change facilitates the agency's eventual move to online application. • Provides notice that forms are available from the board. • Changes the effective date of licensure as implied by current rule: Current agency guidance is that the license is not valid until the applicant receives a hard copy in the mail. However, once posted to the board database the license is effective. • Includes other minor housekeeping language amendments.
4-25-752	<ul style="list-style-type: none"> • Adds "initially register" to distinguish the rule from renewal. • Changes reference from "natural person" to "individual" to coincide with definition in RCW 18.04.025 changed by SSB 6604. • Verbiage improvements for clarity. • Changes the agency's legacy practice of requiring signed forms. This change facilitates the agency's eventual move to online registration. • Changes the effective date of registration as implied by current rule: Current agency guidance is that the registration is not valid until the applicant receives a hard copy in the mail. However, once posted to the board database the registration is effective.
4-25-753 New Section	For ease of understanding and reference, this proposed rule summarizes the firm licensing and practice privilege requirements for firms of RCW 18.04.195, as amended by SSB 6604.
4-25-756 Repeal	SSB 6604 eliminated the reference to entering the state and the requirement for out-of-state CPAs to notify the Washington state board of [accountancy] intent to practice within Washington state. The rule is unnecessary.

WAC section:	The revision:
4-25-820	<ul style="list-style-type: none"> • Replaces attest with "audit, compilation and review and other attestation standards." SSB 6604 removed compilation from the definition of attest. The board's quality assurance review program includes monitoring licensees' compliance with compilation standards. • RCW 18.04.195 requires out-of-state firms qualified for practice privileges that perform compilations and other professional services when professional standards require a report expressing assurance to meet the board's QAR program requirements. However, RCW 18.04.350(2), as amended by SSB 6604, eliminates notification. Therefore, out-of-state firms qualified for practice privileges that perform compilations and other professional services when professional standards require a report expressing assurance are exempt from QAR registration requirements. Note: If the firm does not comply in their home state, the board may take disciplinary action against the firm's right to exercise practice privilege. • Clarifies that the registration requirement for participation in the QAR program is applicable only to those licensed firms with an office in this state. • Removes reference that "notice" will be mailed on January 1. This is an agency policy issue not a requirement of regulated persons. • Numbers bulleted list for easy reference.
4-25-830	<ul style="list-style-type: none"> • Clarifies that the rule is applicable to individuals as opposed to firms. • (1)(a) and (3) Replaces "CPA" with "individual licensed to practice in this state." The board's definition of "CPA" includes those individuals exercising practice privileges. This replacement clarifies that those individuals exercising practice privileges are not required to comply with the CPE requirements. • (3) Removes dated implementation language that is no longer necessary. • (8) Changes CPA "waiver" to "extension." This verbiage change more accurately reflects board practice. The board does not waive continuing education requirements but allows additional time to complete the requirements. This conforms to RCW 18.04.215(7) that authorizes the board to renew a certificate or license upon condition that the applicant follow a particular program of CPE. • (8) Adds "resident" to nonlicensee firm owners to clarify and conform with statute, RCW 18.04.195 and board rule, WAC 4-25-790. • Changes the agency's legacy practice of requiring signed forms. This change will facilitate the agency's eventual move to online business. • Provides notice that a form is available.
4-25-910	<ul style="list-style-type: none"> • Adds to the listing of authorizing sections: RCW 18.04.350, as amended by SSB 6604, that authorizes the board to impose discipline against out-of-state individuals and firms right to exercise practice privileges in Washington state. • (1) and (2) Removes all references to notification or renewal of practice privileges. SSB 6604 eliminated the notification requirement. • (1), (2), (4), and (5) - adds "resident" to nonlicensee firm owners to clarify and conform with statute and board rule. RCW 18.04.195(12) and board rule, WAC 4-25-750, require "resident" nonlicensee firm owners to register with the board. Therefore, the board may take disciplinary action against a "resident" nonlicensee firm owner for prohibited acts. • (5), (6), (8), (14) - replaces CPA and CPA firm with "licensee." With this change, the rule is also applicable to those out-of-state individuals and firms exercising practice privileges to conform with the amendments to chapter 18.04 RCW by SSB 6604. (4) Verbiage improvements for clarity. (5) Adds references to specific sections of chapter 18.04 RCW for clarify [clarity], indexing and easy reference. (5)(i) Adds CPA-Inactive certificateholders to the listing of regulated individuals to whom the board will apply the subsection. (6), (8), (9), (13), and (15) - points the reader to the definition of "licensee" as defined by board rule, WAC 4-25-410, for clarity and easy reference. (6) and (9) - Adds employees of regulated persons. This clarifies that a licensee, CPA-Inactive certificateholder, or nonlicensee firm owner may not act in a discreditable manner through their employees. (7) Adds sanctions imposed by nongovernmental professionally related standard-setting bodies as an example of grounds for discipline as authorized by RCW 18.04.195 (13)(b). Nongovernmental professionally related standard-setting bodies include the American Institute of CPAs (AICPA), the Washington Society of CPAs (WSCPA), and others recognized by the board.

WAC section:	The revision:
	<p>(9) Adds the listing of regulated persons to whom the board will apply this subsection for clarity.</p> <p>(9) Incorporates disciplinary authority from RCW 18.04.350, as amended by SSB 6604 that authorizes the board to impose discipline against out-of-state individuals and firms exercising practice privileges and RCW 18.04.195.</p> <p>(11) Makes concealing another's violation of the Public Accountancy Act or board rules a separate subsection.</p> <p>(15) Includes persons exercising practice privileges as authorized by RCW 18.04.195 and 18.04.350 as amended by SSB 6604.</p> <p>(15) Eliminates the reference to use a form to report enforcement actions to conform with board rule, WAC 4-25-670.</p> <p>(15) Adds the reference to "timely" notification of sanctions imposed by others to conform with board rule, WAC 4-25-670.</p> <p>(16)(c) Adds failure to notify the board of discipline entered by nongovernmental professionally related standard-setting bodies as grounds for discipline to bring the rule into compliance with RCW 18.04.195</p> <p>(10) (b). Nongovernmental professionally related standard-setting bodies include the American Institute of CPAs (AICPA), the Washington Society of CPAs (WSCPAs), and others recognized by the board.</p>

Citation of Existing Rules Affected by this Order: Repealing WAC 4-25-756; and amending WAC 4-25-400 What is the authority for and the purpose of the board's rules?, 4-25-410 Definitions, 4-25-520 What public records does the board maintain?, 4-25-521 How can the board be contacted?, 4-25-540 What rules govern the proceedings before the board?, 4-25-550 Do I need to notify the board if I change my address?, 4-25-551 Must I respond to inquiries from the board?, 4-25-610 Which rules govern the conduct of CPAs, CPA-Inactive certificateholders, CPA firms, and firm owners?, 4-25-620 What are the requirements concerning integrity and objectivity?, 4-25-622 When must a CPA or CPA firm be independent?, 4-25-626 What restrictions govern commissions, referral, and contingent fees?, 4-25-630 What are the requirements concerning competence?, 4-25-631 With which rules, regulations and professional standards must a CPA, CPA-Inactive certificateholder, CPA firm, and firm owner comply?, 4-25-640 What are the requirements concerning records and clients confidential information?, 4-25-650 What acts are considered discreditable?, 4-25-660 What are the limitations on advertising and other forms of solicitation?, 4-25-670 What enforcement actions must be reported to the board?, 4-25-735 How does a CPA-Inactive certificateholder apply for licensure?, 4-25-745 How do I apply for an initial CPA license?, 4-25-746 How do I apply for a Washington state CPA license if I hold a valid CPA license in another state?, 4-25-750 What are the CPA firm licensing requirements?, 4-25-752 How do I register to be a resident nonlicensee owner of a licensed firm and with which rules must a nonlicensee firm owner comply? 4-25-820 What are the requirements for participating in quality assurance review (QAR)?, 4-25-830 What are the CPE requirements?

and 4-25-910 What are the bases for the board to impose discipline?; and new sections WAC 4-25-747 Must an individual holding a license from another state apply and obtain a Washington state license to hold out and practice in Washington state? and 4-25-753 Must a firm holding a license from another state apply and obtain a Washington state license to hold out and practice in Washington state?

Statutory Authority for Adoption: For WAC 4-25-400 is RCW 18.04.055; for WAC 4-25-410 is RCW 18.04.055, 18.04.025; for WAC 4-25-520 is RCW 18.04.055, 42.56.070; for WAC 4-25-521 is RCW 18.04.055, 42.56.040; for WAC 4-25-540 is RCW 18.04.055(1), 34.05.220, and 34.05.482; for WAC 4-25-550 and 4-25-551 is RCW 18.04.055(16); for WAC 4-25-610, 4-25-620, 4-25-622, 4-25-626, 4-25-630, 4-25-631, 4-25-650, and 4-25-660 is RCW 18.04.055(2); for WAC 4-25-640 is RCW 18.04.055(2), 18.04.390 (4)(b), 18.04.405(1); for WAC 4-25-670 is RCW 18.04.195 (13)(b), 18.04.215 (9)(b); for WAC 4-25-735 is RCW 18.04.055(12), 18.04.105(4); for WAC 4-25-745 is RCW 18.04.055, 18.04.105(1), 18.04.215(1); for WAC 4-25-746 is RCW 18.04.180, 18.04.215(6); for WAC 4-25-747 is RCW 18.04.350 (2), (3), (4), (5); for WAC 4-25-750 is RCW 18.04.055(8), 18.04.195, 18.04.205; for WAC 4-25-752 is RCW 18.04.055(13), 18.04.195 (11) and (12); for WAC 4-25-753 is RCW 18.04.055(8), 18.04.195; for WAC 4-25-756 is RCW 18.04.055, 18.04.350(2); for WAC 4-25-820 is RCW 18.04.055(9); for WAC 4-25-830 is RCW 18.04.055(7), 18.04.215(5); and for WAC 4-25-910 is RCW 18.04.055(16), 18.04.195 (11)(d), 18.04.295, 18.04.305, 18.04.350(2).

Adopted under notice filed as WSR 08-12-081 on June 3, 2008.

Changes Other than Editing from Proposed to Adopted Version:

WAC sections:	Title:
4-25-410	<p>(35) Conforms the language to RCW 18.04.350 as amended by SSB 6604.</p> <p>(36) Replaced the definition of "Principal place of business" with the definition in RCW 18.04.025 as amended by SSB 6604.</p> <p>(38) Edits; replaced "attestation work" with "professional services for which a report expressing assurance is prescribed by professional standards" for clarity.</p>

WAC sections:	Title:
4-25-540	(3) Removed "rights or" RCW 18.04.350 grants the "right" to practice privilege. Notification is not required; therefore, there is no application to deny.
4-25-622	(2) Replaced "attestation" with "for which a report expressing assurance is prescribed by professional standards" for clarity.
4-25-626	(1)(a) and (3)(a) Replaced "attestation services" with "professional services for which a report expressing assurance is prescribed by professional standards" for clarity. (1)(b) and (3)(b) Replaced "attestation report" with "information for which a report expressing assurance is prescribed by professional standards" for clarity.
4-25-660	Removed requirement for regulated community to include status statement on web site. The requirement affects every CPA needing to include disclaimers for Washington. The requirement is overly restrictive with the concept of no notice.
4-25-747	Replaced "nonresident" with more accurate "out-of-state" and to conform legislative intent. (3) Removed redundant subsection. (4) Included the definition of attest for clarity.
4-25-750	Edit to fix reviser's note relettering (5)(g) to (5)(f).
4-25-753	(1)(c) Included the definition of attest for clarity and ease of reference. (3)(f) Replaced "audit or examination" with reference to subsection (1)(c) for clarity. (3)(g) Replaced "nonresident" with more accurate "out-of-state" and to conform legislative intent.
4-25-820	Edits only.
4-25-910	Replaced "persons exercising" with the more accurate "the right to exercise." (6)(c) The board does not believe this occurrence to be "prima facie" evidence of dishonesty, fraud, or negligence. Moved to separate subsection as an example of grounds for discipline. (9)(b) Did not adopt revised language; needs more study. Replaced "nonresident" with more accurate "out-of-state" and to conform legislative intent. (16)(c) Added failure to notify the board of discipline entered by nongovernmental professionally related standard-setting bodies as grounds for discipline to bring the rule into compliance with RCW 18.04.195 (10)(b). Nongovernmental professionally related standard-setting bodies include the American Institute of CPAs (AICPA), the Washington Society of CPAs (WSCPA), and others recognized by the board.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 25, Repealed 1.

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 25, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 25, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 25, Repealed 1.

Date Adopted: July 18, 2008.

Richard C. Sweeney
Executive Director

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-400 What is the authority for and the purpose of the board's rules? The Public Accountancy Act

(act), chapter 18.04 RCW, establishes the board as the licensing and disciplinary agency for certified public accountants (CPA), CPA-Inactive certificateholders, CPA firms, and owners of CPA firms. The act authorizes the board to promulgate rules to carry out the purpose of the act, which include:

- Protecting the public interest;
- Enhancing the reliability of information used for guidance in financial transactions or for accounting for or assessing financial status or performance;
- Establishing one set of qualifications to be a licensee of this state;
- Assuring that CPAs practicing in Washington have substantially equivalent qualifications to those practicing in other states;
- Regulating ownership of CPA firms;
- Publishing consumer alerts and public protection information regarding persons and firms who violate the act or board rules; and
- Providing general consumer protection information to the public.

The board's rules, contained in chapter 4-25 WAC, encompass these subjects:

- Definitions;
- Administration of the board;

- Ethics and prohibited practices;
- Entry and renewal requirements;
- Continuing competency; and
- Regulation and enforcement.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-410 Definitions. For purposes of these rules the following terms have the meanings indicated unless a different meaning is otherwise clearly provided in these rules:

(1) **"Act"** means the Public Accountancy Act codified as chapter 18.04 RCW.

(2) **"Active individual participant"** means ~~((a natural person))~~ an individual whose primary occupation is at the firm or affiliated entity's business. An individual whose primary source of income from the business entity is provided as a result of passive investment is not an active individual participant.

(3) **"Affiliated entity"** means any entity, entities or persons that directly or indirectly through one or more relationships influences or controls, is influenced or controlled by, or is under common influence or control with other entities or persons. This definition includes, but is not limited to, parents, subsidiaries, investors or investees, coinvestors, dual employment or management in joint ventures or brother-sister entities.

(4) **"Applicant"** means an individual who has applied:

(a) To take the national uniform CPA ~~((exam))~~ examination;

(b) For ~~((a CPA))~~ an initial individual license, ~~((a CPA))~~ an initial firm license, or initial registration as a resident nonlicensee owner ~~((, or practice privileges))~~;

(c) To renew ~~((a CPA))~~ an individual license, a CPA-Inactive certificate, a CPA firm license, or registration as a resident nonlicensee firm owner;

(d) To reinstate ~~((a CPA))~~ an individual license, a CPA-Inactive certificate, ~~((or))~~ registration as a resident nonlicensee firm owner, or practice privileges.

(5) **"Attest ~~((services))~~"** ~~((are services performed by a licensee in accordance with:~~

(a) ~~Statements on Auditing Standards and related Auditing Interpretations issued by the American Institute of Certified Public Accountants (AICPA);~~

(b) ~~Statements on Standards for Accounting and Review Services and related Accounting and Review Services Interpretations issued by the AICPA;~~

(c) ~~Statements on Standards for Attestation Engagements and related Attestation Engagements Interpretations issued by the AICPA; or~~

(d) ~~Auditing standards issued by the Public Company Accounting Oversight Board (PCAOB))~~ means providing the following financial statement services:

(a) Any audit or other engagement to be performed in accordance with the statements on auditing standards;

(b) Any review of a financial statement to be provided in accordance with the statements on standards for accounting and review services;

(c) Any examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements; and

(d) Any engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(6) **"Audit," "review," and "compilation"** are terms reserved for use by licensees ~~((and individuals granted practice privileges under the act)), as defined in subsection (28) of this section.~~

(7) **"Board"** means the board of accountancy created by RCW 18.04.035.

(8) **"Certificate"** means a certificate as a CPA-Inactive issued in the state of Washington prior to July 1, 2001, as authorized by the act, unless otherwise defined in rule.

(9) **"Certificateholder"** means the holder of a valid CPA-Inactive certificate where the individual is not a licensee and is prohibited from practicing public accounting.

(10) **"Client"** means the person or entity that retains a ~~((CPA firm, a CPA, the CPA's firm, or a firm owner,))~~ licensee, as defined in subsection (28) of this section, a CPA-Inactive certificateholder, a nonlicensee firm owner of a licensed firm, or an entity affiliated ~~((entity, or the owner of an affiliated entity))~~ with a licensed firm to perform professional services through other than an employer/employee relationship.

(11) **"Commissions and referral fees"** are compensation arrangements where:

(a) The primary contractual relationship for the product or service is not between the client and ~~((the CPA firm, the CPA, the CPA's firm, or a firm owner))~~ licensee, as defined in subsection (28) of this section, CPA-Inactive certificateholder, nonlicensee firm owner of a licensed firm, or a person affiliated with a licensed firm;

(b) ~~((The CPA firm, the CPA, the CPA's firm, or a firm owner is))~~ Such persons are not primarily responsible to the client for the performance or reliability of the product or service;

(c) ~~((The CPA firm, the CPA, the CPA's firm, or a firm owner))~~ Such persons add ~~((s))~~ no significant value to the product or service; or

(d) A third party instead of the client pays the ~~((CPA firm, the CPA, the CPA's firm, or a firm owner))~~ persons for the products or services.

(12) **"Compilation"** means providing a service to be performed in accordance with statements on standards for accounting and review services that is presenting in the form of financial statements, information that is the representation of management (owners) without undertaking to express any assurance on the statements.

(13) **"Contingent fees"** are fees established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service.

~~((13))~~ (14) **"CPA" or "certified public accountant"** means ~~((a natural person))~~ an individual holding a ~~((CPA))~~ license to practice public accounting under chapter 18.04 RCW or recognized by the board in the state of Washington,

including ~~((a person granted))~~ an individual exercising practice privileges pursuant to RCW 18.04.350(2).

~~((14))~~ (15) "CPA-Inactive" means ((a natural person)) an individual holding a CPA-Inactive certificate recognized in the state of Washington. An individual holding a CPA-Inactive certificate is prohibited from practicing public accounting and may only use the CPA-Inactive title if they are not offering accounting, tax, tax consulting, management advisory, or similar services to the public.

~~((15))~~ (16) "CPE" means continuing professional education.

~~((16) "Entering the state" means an individual is practicing public accounting in the state of Washington and that individual spends more than ten percent of his or her total work hours on activities conducted within the state of Washington, maintains an office or workstation in the state of Washington or advertises to provide his or her services within the state of Washington.)~~

(17) **"Firm"** means a sole proprietorship, a corporation, or a partnership. "Firm" also means a limited liability company or partnership formed under chapters 25.15 and 18.100 RCW and a professional service corporation formed under chapters 23B.02 and 18.100 RCW.

(18) **"Generally accepted accounting principles"** (GAAP) is an accounting term that encompasses the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time. It includes not only broad guidelines of general application, but also detailed practices and procedures. Those conventions, rules, and procedures provide a standard by which to measure financial presentations.

(19) **"Generally accepted auditing standards"** (GAAS) are guidelines and procedures, promulgated by the AICPA, for conducting individual audits of historical financial statements.

(20) **"Holding out"** means any representation to the public by the use of restricted titles as set forth in RCW 18.04.345 by a person ~~((or firm))~~ that the person ~~((or firm))~~ holds a license or practice privileges under the act and that the person ~~((or firm))~~ offers to perform any professional services to the public ~~((as a licensee))~~. "Holding out" shall not affect or limit a person ~~((or firm))~~ not required to hold a license under the act from engaging in practices identified in RCW 18.04.350.

(21) **"Home office"** is the location specified by the client as the address to which a service is directed.

(22) **"Inactive"** means the ~~((person))~~ individual held a valid certificate on June 30, 2001, has not met the current requirements of licensure and has been granted CPA-Inactive certificateholder status through the renewal process established by the board. A CPA-Inactive may not practice public accounting nor may the individual use the CPA-Inactive title if they are offering accounting, tax, tax consulting, management advisory, or similar services to the public.

~~((22))~~ (23) "Individual" means a living, human being.

(24) **"Independence"** means an absence of relationships that impair a licensee's impartiality and objectivity in rendering ~~((attest))~~ professional services for which a report expressing assurance is prescribed by professional standards.

~~((23))~~ (25) "Interactive self-study program" means a CPE program that provides feedback throughout the course.

~~((24))~~ (26) "IRS" means Internal Revenue Service.

~~((25))~~ (27) "License" means a license to practice public ~~((accountancy))~~ accounting issued to an individual or a firm under the act or the act of another state.

~~((26))~~ (28) "Licensee" means an individual or firm holding a valid license to practice public ~~((accountancy))~~ accounting issued under the act, including out-of-state individuals qualifying for practice privileges in this state under RCW 18.04.350(2) and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195 (1)(b).

~~((27))~~ (29) "Manager" means a manager of a limited liability company licensed as a firm under the act.

~~((28))~~ (30) "NASBA" means the National Association of State Boards of Accountancy.

~~((29) "Natural person" means a living, human being.~~

~~((30))~~ (31) "Nonlicensee firm owner" means ((a CPA)) an individual, not licensed in any state to practice public accounting, who holds an ownership interest in a firm ~~((owner who is not licensed in any state))~~ permitted to practice public ~~((accountancy))~~ accounting in this state.

~~((31))~~ (32) "PCAOB" means Public Company Accounting Oversight Board.

~~((32))~~ (33) "Peer review" means a study, appraisal, or review of one or more aspects of the attest or compilation work of a licensee or licensed firm in the practice of public ~~((accountancy))~~ accounting, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed, including a peer review, or any internal review or inspection intended to comply with quality control policies and procedures, but not including the "quality assurance review" under ~~((RCW 18.04.025(14))~~ subsection (38) of this section.

~~((33))~~ (34) "Person" means any individual, nongovernmental organization, or business entity regardless of legal form, including a sole proprietorship, firm, partnership, corporation, limited liability company, association, or not-for-profit organization, and including the sole proprietor, partners, members, and, as applied to corporations, the officers.

(35) "Practice privileges" ~~((means an individual))~~ are the rights granted by chapter 18.04 RCW to a person who:

~~((a))~~ (a) Has a principal place of business outside of Washington state;

~~((a))~~ (b) Is licensed to practice public accounting in another substantially equivalent state;

~~((a))~~ Has notified the board of intent to enter the state;

~~((a))~~ (c) Meets the statutory criteria for ~~((a grant))~~ the exercise of privileges as set forth in RCW 18.04.350(2) for individuals or RCW 18.04.195 (1)(b) for firms;

(d) Exercises the right to practice public accounting in this state individually or on behalf of a firm;

~~((a))~~ (e) Is subject to ~~((discipline in the state of Washington))~~ the personal and subject matter jurisdiction and disciplinary authority of the board in this state; ~~((and~~

~~((a))~~ (f) Must comply with the act and all board rules applicable to Washington state licensees to retain the privilege; and

(g) Consents to the appointment of the issuing state board of another state as agent for the service of process in any action or proceeding by this state's board against the certificateholder or licensee.

~~((34))~~ (36) "Principal place of business" means ~~((a single fixed))~~ the office location designated by the ~~((individual from which the individual directs, controls, and coordinates the majority of his or her business activities))~~ licensee for purposes of substantial equivalency and reciprocity.

~~((35))~~ (37) "Public practice" or the "practice of public accounting" means performing or offering to perform by a person or firm holding itself out to the public as a licensee, or as an individual holding practice privileges, for a client or potential client, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of "audit reports," "review reports," or "compilation reports" on financial statements, or one or more kinds of management advisory, or consulting services, or the preparation of tax returns, or the furnishing of advice on tax matters. The "practice of public accounting" shall not include practices that are permitted under the provisions of RCW 18.04.350(6) by persons or firms not required to be licensed under the act.

~~((36))~~ (38) "Quality assurance review or QAR" is the process, established by and conducted at the direction of the board, ~~((of))~~ to study, ((appraisal)) appraise, or review ((of)) one or more aspects of the ((attest work)) audit, compilation, review, and other professional services for which a report expressing assurance is prescribed by professional standards of a licensee or licensed firm in the practice of public ~~((accountancy))~~ accounting, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed.

~~((37))~~ (39) "Reciprocity" means board recognition of licenses, permits, certificates or other public accounting credentials of another jurisdiction that the board will rely upon in full or partial satisfaction of licensing requirements.

~~((38))~~ (40) "Referral fees" see definition of "commissions and referral fees" in subsection (11) of this section.

~~((39))~~ (41) "Reports on financial statements" means any reports or opinions prepared by licensees, based on services performed in accordance with generally accepted auditing standards, standards for attestation engagements, or standards for accounting and review services, as to whether the presentation of information used for guidance in financial transactions or for accounting for or assessing the status or performance of an entity, whether public, private, or governmental, conforms with generally accepted accounting principles or an "other comprehensive bases of accounting," or the presentation and disclosure requirements of other professional standards. "Reports on financial statements" does not include services referenced in RCW 18.04.350~~((6))~~ (10) provided by persons not holding a license under the act.

~~((40))~~ (42) "Representing oneself" ~~((for the purposes of RCW 18.04.295(2) and WAC 4-25-910(3))~~) means having a license, practice privilege, certificate or registration that entitles the holder to use the title "CPA," "CPA-Inactive," or be a nonlicensee firm owner.

~~((41))~~ (43) "Rules of professional conduct" means rules adopted by the board to govern the conduct of ~~((CPAs and CPA firms))~~ licensees, as defined in subsection (28) of

this section, while representing themselves to others as ~~((CPAs))~~ licensees. These rules also govern the conduct of CPA-Inactive certificateholders, nonlicensee firm owners, and persons ~~((granted))~~ exercising practice privileges pursuant to RCW 18.04.350(2).

~~((42))~~ (44) "SEC" means the Securities and Exchange Commission.

~~((43))~~ (45) "Sole proprietorship" means a legal form of organization owned by one person meeting the requirements of RCW 18.04.195.

(46) "State" includes the states and territories of the United States, including the District of Columbia, Puerto Rico, Guam, and the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands at such time as the board determines that the Commonwealth of the Northern Mariana Islands is issuing licenses under the substantially equivalent standards of RCW 18.04.350 (2)(a).

~~((44))~~ (47) "Statements on auditing standards (SAS)" are interpretations of the generally accepted auditing standards and are issued by the Auditing Standards Board of the AICPA. Licensees are required to adhere to these standards in the performance of audits of financial statements.

~~((45))~~ (48) "Statements on standards for accounting and review services (SSARS)" are standards, promulgated by the AICPA, to give guidance to licensees who are associated with the financial statements of nonpublic companies and issue compilation or review reports.

~~((46))~~ (49) "Statements on standards for attestation engagements (SSAE)" are guidelines, promulgated by the AICPA, for use by licensees in attesting to assertions involving matters other than historical financial statements and for which no other standards exist.

AMENDATORY SECTION (Amending WSR 02-04-064, filed 1/31/02, effective 3/15/02)

WAC 4-25-520 What public records does the board maintain? The board maintains the following public records:

- (1) A data base of licensees~~((;))~~ and certificateholders ~~((and individuals granted practice privileges));~~
- (2) A data base of CPA examination candidates;
- (3) A data base of registered resident nonlicensee firm owners;
- (4) Board orders;
- (5) Board meeting minutes;
- (6) Board policies;
- (7) Board ~~((rules))~~ rule-making files; and
- (8) Documents dealing with the regulatory, supervisory, and enforcement responsibilities of the board.

In order to obtain a list of individuals under the provisions of RCW 42.17.260(9), educational and professional organizations must use the form provided by the board and apply for and receive recognition by the board. Fees for lists must be paid in advance.

AMENDATORY SECTION (Amending WSR 01-11-126, filed 5/22/01, effective 6/30/01)

WAC 4-25-521 How can I contact the board? The board's administrative office, executive director and staff are

located in Olympia, Washington. You may utilize the following numbers or addresses to contact the board:

- 711 South Capitol Way, Suite 400, Olympia, WA 98501 (physical address);
- P.O. Box 9131, Olympia, Washington 98507-9131 (mailing address);
- 360/753-2586 (telephone);
- 360/664-9190 (fax);
- 800/833-6388 (TT service);
- 800/833-6385 (Telebraille services);
- ((webmaster@cpaboard.wa.gov)) customerservice@cpaboard.wa.gov (e-mail address); and
- www.cpaboard.wa.gov (web site address).

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-540 What rules govern the proceedings before the board? Except where they are inconsistent with the rules in this chapter and subject to additional rules that the board may adopt from time to time, practice and procedure in and before the board are governed by the uniform procedural rules codified in the Washington Administrative Code, chapter 10-08 WAC.

For certain types of decisions, the board has adopted an appeal process authorized by RCW 34.05.482 through 34.05.494 which is called a brief adjudicative proceeding. Decisions to which this appeal process will be applied are:

- (1) Staff denials of initial individual license applications, renewals, or applications for reinstatement;
- (2) Staff denials of CPA-Inactive certificate renewals or applications for reinstatement;
- (3) Staff denials of practice privilege reinstatements;
- (4) Staff denials of initial resident nonlicensee firm owner registration applications, renewals, or applications or requests for reinstatement;
- (5) Staff denials of initial firm license applications, renewals, and amendments;
- (6) Staff denials of exam applications; and
- (7) A proposed suspension as a result of a determination ~~((whether a licensee, CPA-Inactive certificateholder, or registered nonlicensee firm owner has been certified))~~ by a lending agency ~~((and reported for))~~ of nonpayment or default on a federally or state-guaranteed student loan or service conditional scholarship.

To appeal a decision you must submit your request for a brief adjudicative proceeding, **in writing**, to the board **within thirty days** after the decision by board staff is posted in the U.S. mail. The presiding officer for the brief adjudicative proceedings is the executive director, or designee. After consulting with a board member, the executive director, or designee, renders a decision either upholding or overturning the decision by board staff. This decision, called an order, is mailed to you.

If you are dissatisfied with the order in the brief adjudicative proceeding, you may appeal to the board's vice-chair, or designee. This appeal process is called an administrative review. Your appeal must be received by the board, **orally or in writing, within twenty-one days** after the brief adjudicative proceedings order is posted in the U.S. mail. The vice-

chair, or designee, considers your appeal and either upholds or overturns the brief adjudicative proceeding order. The vice-chair's, or designee's, decision, also called an order, is mailed to you.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-550 Do I need to notify the board if I change my address? Yes. All ~~((CPAs))~~ individuals licensed in this state, CPA-Inactive certificateholders, CPA firms licensed ~~((with the board))~~ in this state, individuals registered with the board as resident nonlicensee firm owners, and applicants must notify the board **in writing** within thirty days of any change of address. Firms licensed in this state must notify the board of any opening, closing, or relocation of the main office or a branch office in this state.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-551 Must I respond to inquiries from the board? Yes. All ~~((CPAs))~~ licensees, including out-of-state individuals qualifying for practice privileges in this state under RCW 18.04.350(2) and out-of-state firms permitted to offer or render certain professional services in this state under the condition prescribed in RCW 18.04.195 (1)(b), CPA-Inactive certificateholders, ((CPA firms licensed with the board, individuals registered with the board as resident)) nonlicensee firm owners, and applicants must respond, **in writing**, to board communications requesting a response. Your response must be made within **twenty days of the date** the board's communication is posted in the U.S. mail. Communications from the board to you are directed to the last address you furnished the board.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-610 Which rules govern the conduct of CPAs, CPA-Inactive certificateholders, CPA firms, and firm owners? The rules that govern the conduct of CPAs, CPA-Inactive certificateholders, CPA firms, and firm owners are as follows:

(1) **Professional judgment** - In carrying out their responsibilities, a person representing oneself as a ~~((CPA))~~ licensee, CPA-Inactive certificateholder, or nonlicensee firm owner, and/or using the CPA or CPA-Inactive title, ~~((CPA firms, and firm owners))~~ and employees of such persons must exercise professional judgment in all their activities.

(2) **The public interest** - A person representing oneself as a ~~((CPA))~~ licensee, CPA-Inactive certificateholder, or nonlicensee firm owner, and/or using the CPA or CPA-Inactive title, ~~((CPA firms, and firm owners))~~ and employees of such persons must accept the obligation to act in a way that will serve the public interest, honor the public trust, and demonstrate commitment to professionalism.

(3) **Integrity** - To maintain and broaden public confidence a person representing oneself as a ~~((CPA))~~ licensee, CPA-Inactive certificateholder, or nonlicensee firm owner, and/or using the CPA or CPA-Inactive title, ~~((CPA firms, and~~

firm owners) and employees of such persons must perform all professional responsibilities with the highest sense of honesty.

(4) **Objectivity** - Objectivity is to be maintained by a person representing oneself as a ~~((CPA))~~ licensee, CPA-Inactive certificateholder, or nonlicensee firm owner, and/or using the CPA or CPA-Inactive title, ~~((CPA firms, and firm owners))~~ and employees of such persons. Specifically, ~~((a))~~ such persons ~~((representing oneself as a CPA, CPA-Inactive, or using the CPA or CPA Inactive title, CPA firms, and firm owners))~~ must:

(a) Avoid rendering professional services where actual or perceived conflicts of interest exist;

(b) Be independent in fact and appearance when providing attestation services.

(5) **Due care** - A person representing oneself as a ~~((CPA))~~ licensee, CPA-Inactive certificateholder, or nonlicensee firm owner, and/or using the CPA or CPA-Inactive title, ~~((CPA firms, and firm owners))~~ and employees of such persons must comply with federal and state laws and the profession's technical and ethical standards, maintain competence and strive to improve the quality of services, and discharge professional responsibility to the best of the person's or the firm's ability.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-620 What are the requirements concerning integrity and objectivity? When offering or performing services, ~~((CPAs))~~ licensees, CPA-Inactive certificateholders, ~~((CPA firms, and firm owners))~~ nonlicensee firm owners, and employees of such persons must:

- Remain honest and objective;
- Not misrepresent facts;
- Not subordinate their judgment to others; and
- Remain free of conflicts of interest unless such conflicts are specifically permitted by board rule or professional standards listed in WAC 4-25-631.

If the language of the professional standards listed in WAC 4-25-631 differ from or conflict with specific board rules, board rules prevail.

AMENDATORY SECTION (Amending WSR 03-24-034, filed 11/25/03, effective 12/31/03)

WAC 4-25-622 When ~~((must a CPA or CPA firm be independent))~~ is independence required? When performing ~~((attest))~~ professional services ~~((, CPAs and CPA firms are responsible for maintaining))~~ for which a report expressing assurance is prescribed by professional standards, licensees, as defined in WAC 4-25-410, CPA-Inactive certificateholders, nonlicensee firm owners, and employees of such persons must evaluate and maintain their independence so that ~~((attest))~~ opinions, reports, conclusions, and judgments will be impartial and viewed as impartial by parties expected to rely on ~~((the attest))~~ any report expressing assurance by such persons. ~~((CPAs and CPA firms))~~ Such persons are required:

~~((*)~~ (1) To comply with all applicable independence rules, regulations, and the AICPA code of conduct as referenced in and required by WAC 4-25-631; and

~~((*)~~ (2) To decline ~~((attest))~~ engagements ~~((where the CPA or CPA firm has))~~ for which a report expressing assurance is prescribed by professional standards when such persons have a relationship that could lead a reasonable and foreseeable user to conclude that ~~((the CPA or CPA firm is))~~ such persons are not independent.

Independence is not required when performing a compilation engagement provided the ~~((CPA's))~~ report discloses a lack of independence.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-626 What restrictions govern commissions, referral, and contingent fees? For the purposes of this section, the term "licensed firm" includes any affiliated entity(ies) and the term "firm owner" includes the owner(s) of any affiliated entity(ies).

(1) ~~((A CPA, CPA Inactive certificateholder, a firm owner, or a licensed firm))~~ Licensees and/or their employees must not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when ~~((the CPA, CPA Inactive certificateholder, the CPA's or CPA Inactive certificateholder's firm, the owner's firm, or the firm))~~ such persons perform ~~((s attest services))~~ compilation, or other professional services for which a report expressing assurance is prescribed by professional standards for that client. This prohibition applies:

(a) During the period in which ~~((the CPA, CPA Inactive certificateholder, the CPA's or CPA Inactive certificateholder's firm, the owner's firm, or the firm is))~~ such persons are engaged to perform ~~((the attest))~~ professional services for which a report expressing assurance is prescribed by professional standards; and

(b) During the period covered by any ~~((historical financial statements involved in the attest services))~~ information for which a report expressing assurance is prescribed by professional standards and a report was issued by such persons.

(2) ~~((A CPA, CPA Inactive certificateholder, licensed firm, or firm owner who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission must disclose, consistent with the requirements set forth in subsection (7) of this section, that fact to any person or entity to whom the CPA, CPA Inactive certificateholder, the CPA's or CPA Inactive certificateholder's firm, the firm owner, the owner's firm, or the licensed firm recommends or refers a product or service to which the commission relates~~.

(3) A CPA, CPA Inactive certificateholder, firm owner, or licensed firm accepting a referral fee for recommending or referring any services to any person or entity or who pays a referral fee to obtain a client must disclose, consistent with the requirements set forth in subsection (7) of this section, such acceptance or payment to the client.

~~(4) A CPA, CPA-Inactive certificateholder, firm owner, or licensed firm))~~ Licensees and/or their employees must also not:

(a) Perform for a contingent fee any professional services for, or receive such a fee from a client for whom ~~((the CPA, CPA-Inactive certificateholder, the CPA's or CPA-Inactive certificateholder's firm, the firm owner, the owner's firm, or the licensed firm performs attest services))~~ such persons perform compilation, or other professional services for which a report expressing assurance is prescribed by professional standards; or

(b) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

~~((5))~~ (3) The prohibition ((in subsection (4)(a) of this section)) against contingent fees applies;

~~(a) During the period in which ((the CPA, CPA-Inactive certificateholder, the CPA's or CPA-Inactive certificateholder's firm, the owner's firm, or the licensed firm is))~~ such persons are engaged to perform ((the attest)) professional services for which a report expressing assurance is prescribed by professional standards; and

~~(b) During the period covered by any ((historical financial statements involved in the attest services))~~ information for which a report expressing assurance is prescribed by professional standards and a report was issued by such persons.

~~((6))~~ (4) Fees are not considered contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. Fees may vary depending, for example, on the complexity of services rendered.

~~((7) All CPAs, CPA-Inactive certificateholders, firm owners, and licensed firms who accept commission, referral and contingent fee arrangements must))~~ (5) Any person subject to board rules who is not prohibited by this section from performing services for, or receiving a commission, referral or contingent fee and who are paid or expect to be paid accordingly must disclose that fact to any person or entity to whom such persons recommend or refer a product or service to which the commission, referral or contingent fee relates in the manner prescribed below:

(a) Disclose the arrangement in writing and in advance of client acceptance;

(b) Disclose the method of calculating the fee or amount of fee;

(c) Specify the ~~((CPA's))~~ licensee's, CPA-Inactive certificateholder's, or nonlicensee firm owner's role as the client's advisor; and

(d) Obtain the client's consent to the fee arrangement in writing.

~~((8))~~ (6) Nothing in this rule shall be interpreted to preclude ((a CPA)) licensees, as defined in WAC 4-25-410, CPA-Inactive certificateholders, or nonlicensee firm owners((, or licensed firm)) from purchasing, selling, or merging all or a portion of a ((CPA practice)) licensed firm or affiliated entity or to require disclosure to clients of terms or payments made or received pursuant to the purchase, sale, or merger.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-630 What are the requirements concerning competence? ~~((CPAs))~~ Licensees, CPA-Inactive certificateholders, ((CPA firms, and)) nonlicensee firm owners, and employees of such persons must not undertake to perform any professional service ~~((as a CPA, CPA-Inactive certificateholder, CPA firm, or as a firm owner))~~ unless ~~((they))~~ such persons can reasonably expect to complete the service with professional competence.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-631 Compliance is required with which rules, regulations and professional standards ((must a CPA, CPA-Inactive certificateholder, CPA firm, and firm owner comply))? ~~((CPAs))~~ Licensees, including out-of-state individuals qualifying for practice privileges in this state under RCW 18.04.350(2) and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195 (1)(b), CPA-Inactive certificateholders, CPA firms, ((and)) nonlicensee firm owners, and employees of such persons must comply with rules, regulations, and professional standards promulgated by the appropriate bodies for each service undertaken. However, if the requirements found in the professional standards listed in this section differ~~((s))~~ from the requirements found in specific board rules, board rules prevail.

~~((Such appropriate))~~ Authoritative bodies include, but are not limited to, the Securities and Exchange Commission (SEC); the Public Company Accounting Oversight Board (PCAOB); the Financial Accounting Standards Board (FASB); the Governmental Accounting Standards Board (GASB); the Cost Accounting Standards Board (CASB); the Federal Accounting Standards Advisory Board (FASAB); the U.S. Governmental Accountability Office (GAO); the Federal Office of Management and Budget (OMB); the Internal Revenue Service (IRS); the American Institute of Certified Public Accountants (AICPA), and federal, state, and local audit, regulatory and tax agencies.

Such standards include:

(1) Statements on Auditing Standards and related Auditing Interpretations issued by the AICPA;

(2) Statements on Standards for Accounting and Review Services and related Accounting and Review Services Interpretations issued by the AICPA;

(3) Statements on Governmental Accounting and Financial Reporting Standards issued by GASB;

(4) Statements on Standards for Attestation Engagements and related Attestation Engagements Interpretations issued by AICPA;

(5) Statements of Financial Accounting Standards and Interpretations, and Staff Positions issued by FASB, together with those Accounting Research Bulletins and Accounting Principles Board Opinions which are not superseded by action of the FASB;

(6) Statement on Standards for Consulting Services issued by the AICPA;

(7) Statements on Quality Control Standards issued by the AICPA;

(8) Statements on Standards for Tax Services and Interpretation of Statements on Standards for Tax Services issued by the AICPA;

(9) Statements on Responsibilities in Personal Financial Planning Practice issued by the AICPA;

(10) Statements on Standards for Litigation Services issued by the AICPA;

(11) Professional Code of Conduct issued by the AICPA including interpretations and ethics rulings;

(12) Governmental Auditing Standards issued by the U.S. Governmental Accountability Office;

(13) AICPA Industry Audit and Accounting Guides;

(14) SEC Rules, Concept Releases, Interpretative Releases, and Policy Statements;

(15) Standards issued by the PCAOB; and

(16) IRS Circular 230.

If the professional services are governed by standards not included in subsections (1) through (16) of this section, ~~((you))~~ individuals and firms including persons qualifying for practice privileges under RCW 18.04.350(2) who offer or render professional services in this state or for clients located in this state and the firms rendering professional services in this state or for clients located in this state through such qualifying individuals must:

~~((Justify))~~ (a) Maintain documentation of the justification for the departure from the standards listed in subsections (1) through (16) of this section;

~~((Determine))~~ (b) Determine and document what standards are applicable; and

~~((Comply))~~ (c) Demonstrate compliance with the applicable standards.

~~((Copies of the above standards may be inspected at the board's office.))~~

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-640 What are the requirements concerning records and clients confidential information? (1) **Client:** The term "client" as used throughout this section includes former and current clients. For purposes of this section, a client relationship has been formed when confidential information has been disclosed by a prospective client in an initial interview to obtain or provide professional services.

(2) **Property of the licensee, CPA-Inactive certificateholder, and/or nonlicensee firm owner:** In the absence of an express agreement between ~~((the))~~ a licensee, CPA-Inactive certificateholder, and/or nonlicensee firm owner and the client to the contrary, all statements, records, schedules, working papers, and memoranda made by a licensee incident to or in the course of professional service to clients, except reports submitted by a licensee, are the property of the licensee.

(3) **Sale or transfer of client records:** No statement, record, schedule, working paper, or memorandum, including electronic records, may be sold, transferred, or bequeathed without the consent of the client or his or her personal representative or assignee, to anyone other than one or more sur-

living partners, shareholders, or new partners or new shareholders of the licensee, partnership, limited liability company, or corporation, or any combined or merged partnership, limited liability company, or corporation, or successor in interest.

(4) **Confidential client communication or information:** ~~((A))~~ Licensees, CPA-Inactive certificateholders, nonlicensee firm owners, or employees of ((a licensee)) such persons must not without the consent of the client or the heirs, successors or personal representatives of the client disclose any confidential communication or information pertaining to the client obtained in the course of performing professional services.

This rule does not:

(a) Affect in any way ~~((a licensee's, CPA-Inactive certificateholder's, firm owner's, or employee of a licensee's))~~ the obligation of those persons to comply with a lawfully issued subpoena or summons;

(b) Prohibit disclosures in the course of a quality review of a licensee's attest, compilation, or other reporting services governed by professional standards;

(c) Preclude ~~((a licensee, CPA-Inactive certificateholder, firm owner, or employee of a licensee))~~ those persons from responding to any inquiry made by the board or any investigative or disciplinary body established by local, state, or federal law or ((formally)) recognized by the board ~~((However, a licensee, CPA-Inactive certificateholder, firm owner, or employee of a licensee must not disclose or use to their own advantage any confidential client information that comes to their attention in carrying out their official responsibilities))~~ as a professional association; or

(d) Preclude a review of client information in conjunction with a prospective purchase, sale, or merger of all or part of ~~((a CPA's))~~ the professional practice of public accounting of any such persons.

(5) **Client records:** Licensees, CPA-Inactive certificateholders, ~~((and))~~ nonlicensee firm owners, and employees of such persons must furnish to their client or heirs, successors or personal representatives, upon request and reasonable notice:

(a) A copy of ~~((the licensee's, CPA-Inactive certificateholder's or firm owner's))~~ records, schedules, and electronic documents of those persons, to the extent that such records and schedules would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(b) Any accounting or other records belonging to, or obtained from or on behalf of, the client, that the licensee, CPA-Inactive certificateholder, or nonlicensee firm owner, or employees of such persons removed from the client's premises or received for the client's account, including electronic documents; but ~~((the licensee, CPA-Inactive certificateholder, or firm owner))~~ such persons may make and retain copies of such documents of the client when they form the basis for ~~((work done by the licensee, CPA-Inactive certificateholder, or firm owner))~~ the professional services offered or rendered by those persons.

~~((c))~~ Licensees, CPA-Inactive certificateholders, ((and)) nonlicensee firm owners, and/or employees of such persons must not refuse to return client records, including electronic documents, pending client payment of outstanding fees.

(6) Audit and review record retention requirements:

For a period of seven years after a licensee concludes an audit or review (~~the licensee~~) such persons must retain the following records and documents, including electronic records unless hard copies of such exist:

- (a) Records forming the basis of the audit or review;
- (b) Records documenting audit or review procedures applied;
- (c) Records documenting evidence obtained including financial data, analyses, conclusions, and opinions related to the audit or review engagement; and
- (d) Records documenting conclusions reached by the licensee in the audit or review engagement.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-650 What acts are considered discreditable? (~~CPAs~~) Licensees, CPA-Inactive certificateholders, (CPA firms, and) nonlicensee firm owners, and employees of such persons must not:

- (*) (1) Commit, or allow others to commit in their name, any act that reflects adversely on their fitness to represent themselves as a CPA, CPA-Inactive certificateholder, CPA firm, or a firm owner;
- (*) (2) Seek to obtain clients by the use of coercion, intimidation or harassing conduct; or
- (*) (3) Permit others to carry out on their behalf, either with or without compensation, acts which violate the rules of conduct.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-660 What are the limitations on advertising and other forms of solicitation? (~~CPAs~~) Licensees, CPA-Inactive certificateholders, (CPA firms, and) nonlicensee firm owners, and employees of such persons must not make false, fraudulent, misleading, deceptive or unfair statements or claims regarding their services. Examples of such statements or claims include, but are not limited to, statements or claims which:

- ~~((a))~~ (1) Contain a misrepresentation of fact;
- ~~((b))~~ (2) Fail to make full disclosure of relevant facts;
- ~~((c))~~ (3) Imply your professional services are of an exceptional quality, which is not supported by verifiable facts;
- ~~((d))~~ (4) Create false expectations of favorable results;
- ~~((e))~~ (5) Imply educational or professional attainments, specialty designations, or licensing recognition not supported in fact; or
- ~~((f))~~ (6) Represent that professional services will be performed for a stated fee when this is not the case, or do not disclose variables that may reasonably be expected to affect the fees that will be charged.

~~((2) If you are a licensee using the CPA title to perform or solicit services via a web site, you must either include a statement on the web site that you hold a current Washington state license or provide a name and contact information for an individual in your organization who will respond to inquiries regarding individual license information within seven busi-~~

ness days. The required information must be clearly visible and prominently displayed.

~~(3) If you are a CPA-Inactive certificateholder using the CPA-Inactive title to perform or solicit services via a web site you must clearly, visibly, and prominently display the following on the web site:~~

- ~~(a) That you hold a current Washington state CPA-Inactive certificate;~~
- ~~(b) That you do not hold a license to practice public accounting; and~~
- ~~(c) That Washington state law does not allow a CPA-Inactive certificateholder to offer or provide accounting, auditing, attest, reports on financial statements, tax preparation or advisory, management advisory, consulting or similar services to the public in association with the use of the title "CPA," "Certified Public Accountant," "CPA-Inactive," or "Certified Public Accountant-Inactive."~~

~~(4) If you are a resident nonlicensee owner of a firm licensed by the board and you perform or solicit services in association with the firm via a web site, you must clearly, visibly, and prominently display a statement that you are a nonlicensee owner registered with the Washington state board of accountancy or provide a name and contact information for an individual in your organization who will respond to inquiries regarding registration information within seven business days.)~~

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-670 What enforcement actions must be reported to the board? (1) A licensee, CPA-Inactive certificateholder, or nonlicensee firm owner must notify the board, ~~(on a form and)~~ in the manner prescribed by the board (policy), within **thirty days** of the issuance of:

- (a) A sanction, order, suspension, revocation, or modification of a license, certificate, permit or practice rights by the SEC, PCAOB, IRS, or another state board of accountancy for any cause other than failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy; or
- (b) Charges filed by the SEC, IRS, PCAOB, another state board of accountancy, or a federal or state taxing, insurance or securities regulatory body that the licensee, CPA-Inactive certificateholder, or nonlicensee firm owner committed a prohibited act that would be a violation of board ethical or technical standards.

~~(2) ((Sole practitioners))~~ Individual licensees and sole proprietors are to report action pursuant to subsection (1) of this section taken against the ~~((sole practitioner, the sole practitioner's))~~ individual's ~~((CPA license, the CPA firm, or the CPA firm))~~ license and/or the license of the sole proprietorship.

(3) Licensed CPA firms with more than one licensed owner are not required to report on action taken against owners, principals, partners, or employees.

(4) If you hold a license or CPA-Inactive certificate issued through the foreign reciprocity provisions of the act, you must notify the board of any investigations undertaken,

or sanctions imposed, by a foreign credentialing body against your foreign credential within thirty days of ~~((your))~~ receiving notice that an investigation has begun or a sanction was imposed.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-735 How does a CPA-Inactive certificate-holder apply for licensure? CPA-Inactive certificateholders are ~~((natural persons))~~ individuals who held a valid certificate on June 30, 2001, but did not hold a valid Washington state license to practice public accounting on that date. Individuals who did not hold a valid certificate on June 30, 2001 and licensees are not eligible for CPA-Inactive certificateholder status.

- (1) If you are a CPA-Inactive certificateholder you:
 - (a) May not "practice public accounting" as that term is defined in WAC 4-25-410;
 - (b) Must meet the CPE requirements of WAC 4-25-830(1) and supporting documentation requirements of WAC 4-25-833;
 - (c) Must comply with the act and board rules;
 - (d) Must meet the renewal requirements of WAC 4-25-790; and
 - (e) Must use the title CPA-Inactive and print or display the word "Inactive" immediately following the initials CPA or certified public accountant whenever the initials CPA or certified public accountant is printed on a business card, letterhead, or other document including documents published or transmitted through electronic media, in exactly the same font and font size as the initials CPA or certified public accountant.
- (2) If you are a CPA-Inactive certificateholder, to qualify for licensure you must:
 - (a) Meet the experience requirements of WAC 4-25-730 or have had an approved experience affidavit on file with the board on or before June 30, 2001; and
 - (b) Meet the CPE requirements of WAC 4-25-830(5).
- (3) ~~((To apply for a license you must use the form(s) provided by the board. An application is not complete and cannot be processed until all fees, required documentation, required information, and other documentation deemed necessary by the board are received by the board.))~~ To apply for a license, you must submit to the board a certification that you meet the requirements of subsection (2) of this section and:
 - (a) ~~((A complete application form(s) including your certification, under the penalty of perjury, that you have:~~
 - ~~((i))~~ Have not held out in public practice during the time in which you were a CPA-Inactive certificateholder; and
 - ~~((ii))~~ Met the CPE requirements in WAC 4-25-830(5); and
 - (b) Other required documentation~~((, required))~~ or information~~((, and other documentation))~~ deemed necessary by the board.

Board forms are available on the board's web site or upon request for your use.

(4) ~~((Upon approval of))~~ An initial application is not complete and cannot be processed until all fees, required

information, required documentation, or other documentation or information the board may deem necessary is received by the board. When your application is approved, your license will be mailed to ~~((the last address you provided to the board))~~ your address of record.

(5) Your CPE reporting period and your renewal cycle will remain the same.

(6) You may not use the title "CPA" or "Certified Public Accountant" until ~~((you receive notice from the board that your license has been granted. With the exception of out-of-state sole practicing CPAs holding valid practice privileges in Washington state under WAC 4-25-756, attest services may only be offered or provided in a CPA firm licensed by the board and meeting the requirements of WAC 4-25-750))~~ the date the approval of your license is posted in the board's licensee data base and, therefore, made publicly available for confirmation.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-745 How do I apply for an initial individual CPA license? (1) To qualify to apply for an initial license you must meet the:

- ~~((1))~~ (a) Good character requirements of RCW 18.04.105 (1)(a);
- ~~((2))~~ (b) Education requirements of WAC 4-25-710;
- ~~((3))~~ (c) Examination requirements of WAC 4-25-720;
- ~~((4))~~ (d) Experience requirements of WAC 4-25-730; and

~~((5))~~ (e) If more than four years have lapsed since you passed the examination, you must meet the CPE requirements of WAC 4-25-830 (1)(a) within the thirty-six month period immediately preceding submission of your license application and must include four CPE hours in ethics meeting the requirements of WAC 4-25-830(3) which must be completed within the six month period immediately preceding submission of your license application.

(2) To apply for an initial license you must ~~((use the application form(s) provided by the board. You must fully complete the form(s) and submit the form(s), all applicable fees, and all required documentation to the board's office))~~ fully provide the information above.

((An initial)) Board form(s) are available on the board's web site or upon request for your use.

(3) Processing of your application ~~((is not complete and))~~ cannot ~~((be processed))~~ begin until all ~~((fees,))~~ the required information, applicable fees, and required documentation or other documentation or information the board may deem necessary is received by the board. When the processing of your application is complete, your license will be mailed to ~~((the last address you provided to))~~ your address of record with the board.

(4) Your initial license will expire on June 30 of the third calendar year following initial licensure.

(5) You may not use the title CPA until ~~((you receive notice from the board that your Washington state CPA license has been approved. With the exception of out-of-state sole practicing CPAs holding valid practice privileges in Washington state under WAC 4-25-756, attest services may~~

only be offered or provided in a CPA firm licensed by the board and meeting the requirements of WAC 4-25-750)) the date the approval of your license is posted in the board's licensee data base and, therefore, made publicly available for confirmation.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-746 How do I apply for a Washington state CPA license if I hold a valid CPA license in another state? Pursuant to RCW 18.04.180 and 18.04.215(6) the board may issue ((a)) an individual license through interstate reciprocity if you hold a CPA license to practice public accounting issued by another state provided your state of licensure makes similar provisions for granting reciprocity to holders of a valid certificate or license in this state.

(1) To qualify to apply for ((a)) an individual Washington state ((CPA)) license entitling you to use the title CPA and/or offer or render compilation, or other professional services for which a report expressing assurance is prescribed by professional standards in Washington state under the interstate reciprocity provisions you must:

((1)) (a) Meet the good character requirements of RCW 18.04.105 (1)(a);

((2)) (b) Meet the CPE requirements in WAC 4-25-830; and

((3)) (c) You must have:

((a)) (i) Passed the examination required for issuance of your certificate or license in the other state with grades that would have been passing grades at that time in this state and:

((ii)) (ii) Met all current requirements for licensure at the time you apply; or

((iii)) (iii) Met, at the time of the issuance of your license in the other state, all the requirements applicable at that time to obtain a license in this state; or

((iv)) (iv) Had five years of experience in the practice of public ((accountancy)) accounting within the ten years immediately preceding your filing an application for licensure in this state; or

((v)) (v) Had three years of experience in the practice of public ((accountancy)) accounting within the five years immediately preceding your filing an application for licensure in this state; or

((b)) (2) The board may accept NASBA's designation of the applicant as substantially equivalent to national standards as meeting the requirements of ((a)) subsection (1)(c) of this ((subsection)) section.

(3) To apply for a ((Washington state CPA)) license under the ((interstate)) reciprocity provisions you must ((use the application form(s) provided by)) submit to the board's office information that you are qualified for reciprocity as outlined in subsections (1) and (2) of this section, including a certification that you:

(a) Have not held out in public practice during any time prior to submitting your application unless expressly permitted by board rule then existing; and

(b) Have met the CPE requirements in WAC 4-25-830. ((You must fully complete the form(s) and submit the

form(s), all applicable fees, and all required documentation to the board's office.))

Board form(s) are available on the board's web site or upon request for your use.

(4) An initial application is not complete and cannot be processed until all fees, required information, required documentation, or other documentation or information the board may deem necessary is received by the board. ((When the processing))

(5) At date of approval of your application ((is complete, notification)), it will be posted in the board's licensee data base and, therefore, made publicly available for confirmation.

(6) Your license will be mailed to the ((last)) address ((you provided to)) of record with the board provided at the time of your application, or subsequently changed by formal notice to the board.

((Your Washington state CPA license will expire on June 30 of the third calendar year following initial licensure.))

(7) Provided no sanctions or investigations by other jurisdictions are in process and you have met the requirements for applying for licensure through interstate reciprocity, upon filing a completed application with the board, you may use the CPA title in Washington state.

((With the exception of out-of-state sole practicing CPAs holding valid practice privileges in Washington state under WAC 4-25-756, attest services may only be offered or provided in a CPA firm licensed by the board and meeting the requirements of WAC 4-25-750.

If you are granted a license under these reciprocity provisions,)) (8) Your initial license will expire on June 30 of the third calendar year following initial licensure.

(9) You must notify the board within thirty days if your license or certificate issued by the other jurisdiction has lapsed or otherwise become invalid.

NEW SECTION

WAC 4-25-747 Must an out-of-state individual holding a license from another state apply and obtain a Washington state license to hold out and practice in Washington state? No. Out-of-state individuals holding valid licenses to practice public accounting issued by a substantially equivalent state, may hold out and practice within Washington state and/or provide public accounting services in person, by mail, telephone, or electronic means to clients residing in Washington state without notice or payment of a fee.

As a condition of this privilege, the out-of-state individual is deemed to have consented to:

(1) The personal and subject matter jurisdiction and disciplinary authority of this state's board;

(2) Comply with the Public Accountancy Act of this state, chapter 18.04 RCW, and this board's rules, chapter 4-25 WAC;

(3) The appointment of the state board which issued the certificate or license as their agent upon whom process may be served in any action or proceeding by this state's board against the certificateholder or licensee;

(4) Render the following services for a client with a home office in this state only through a firm that has obtained a license from this state (RCW 18.04.195, 18.04.205 and WAC 4-25-750):

(a) Any audit or other engagement to be performed in accordance with the statements on auditing standards;

(b) Any examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements; and

(c) Any engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(5) Not render any professional services in this state unless the out-of-state individual is licensed to render such services in the state of licensure upon which the privilege is contingent;

(6) Cease offering or performing professional services in this state, individually and/or on behalf of a firm, if the license from the state of the out-of-state individual's principal place of business is no longer valid; and

(7) Cease offering or performing specific professional services in this state, individually and/or on behalf of a firm, if the license from the state of the out-of-state individual's principal place of business is restricted from offering or performing such specific professional services.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-750 What are the CPA firm licensing requirements? ~~((With the exception of out-of-state sole practicing CPAs holding valid practice privileges in Washington state under WAC 4-25-756, attest services may only be offered or performed in a CPA firm licensed by the board and meeting the requirements of this section. An entity wishing to use "CPA(s)" or "certified public accountant(s)" in the firm name must first obtain a license from the board.))~~ (1) **How may a CPA firm be organized?** A CPA firm may be organized as:

- (a) A proprietorship;
- (b) A partnership;
- (c) A professional corporation (PC) or professional service corporation (PS);
- (d) A limited liability company (LLC);
- (e) A limited liability partnership (LLP); or
- (f) Any other form of legal entity authorized by statute for use by a CPA firm.

(2) **What happens when a CPA firm alters its legal form?** A change in the legal form of a firm constitutes a new firm. Accordingly, the new entity must first obtain a CPA firm license from the board.

(3) **What are the ownership requirements for a CPA firm?**

- (a) All owners of a licensed CPA firm are required to:
 - (i) ~~((Be natural persons;~~
 - ~~((ii)))~~ Fully comply with the provisions of chapter 18.04 RCW; and
 - ~~((iii)))~~ (ii) Be subject to discipline by the board for violations of chapter 18.04 RCW or 4-25 WAC;

(b) A simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all partners, owners, or shareholders must be:

- (i) Licensees in this state or holders of a valid license to practice public accountancy issued by another state;
- (ii) Entitled to practice public accounting in Washington state; and
- (iii) Principally employed by the corporation or actively engaged in its business.

(c) At least one general partner of a partnership, one shareholder of a corporation, and one ~~((manager))~~ member of a limited liability company must be a licensee.

(d) Each CPA proprietor, partner, shareholder or ~~((manager))~~ member who is either a resident or is entering the state and practicing public accountancy in this state must hold a valid Washington state license or practice privileges.

(e) The principal partner of the partnership and any partner having authority over issuing reports on financial statements must be a licensee under the act or holder of a valid license to practice public accountancy issued by another state and must be entitled to practice public accounting in this state.

(f) The principal officer of the corporation and any officer or director having authority over issuing reports on financial statements must be a licensee under the act or holder of a valid license to practice public accountancy issued by another state and must be entitled to practice public accounting in this state.

(g) The ~~((principal manager or))~~ managing member of a limited liability company and any member having authority over issuing reports on financial statements must be a licensee under the act or holder of a valid license to practice public accountancy issued by another state and must be entitled to practice public accounting in this state.

(h) A nonresident CPA owner must be licensed to practice public accountancy in at least one state.

- (i) A nonlicensee owner must:
 - (i) Be ~~((a natural person))~~ an individual;
 - (ii) Meet the good character requirements of RCW 18.04.105 (1)(a);
 - (iii) Comply with the act and board rules; and
 - (iv) Be an active individual participant in the licensed firm or affiliated entities as these terms are defined in WAC 4-25-410; and

(j) A resident nonlicensee firm owner must meet the requirements of WAC 4-25-752 and register with the board concurrent with submission of the firm license, or submission of an amendment to the firm license, to the board.

(4) **What are the requirements for the firm's main office and a branch office?** ~~((The))~~ A firm's main office located in this state must be under the direct supervision of a resident licensee.

A branch office is an office of a licensed CPA firm which is physically separated from the main office. A branch office operates under the ~~((CPA firm))~~ license of the main office.

(5) **How ~~((do I))~~ does a firm apply for an initial ((CPA)) firm license?** To apply for an initial ~~((CPA))~~ firm license ~~((you must use the application form(s) provided by the board and))~~ an owner, or designee, must submit or, in the

case of an out-of-state firm required to be licensed under RCW 18.04.195 (1)(a), an individual qualified for practice privileges in this state under RCW 18.04.350(2) who has been authorized by the applicant firm to make the application must submit the ~~((completed form(s)))~~ following information, all applicable fees, ~~((all required documentation including the following))~~ and such other information the board deems necessary to the board's office:

- (a) The firm name;
- (b) Address and telephone number of the main office and any branch offices of the firm;
- (c) Name of the managing licensee of the main office located and maintained in this state;
- (d) Resident licensee owners' names ~~((and the states in which they hold CPA licenses))~~;
- (e) Name(s) of all nonlicensee owners~~((s))~~;
- (f) Complete registration form(s), including the appropriate fee, for each resident nonlicensee owner~~((s))~~; and
- ~~((g))~~ (f) Type of legal organization under which the firm operates.

Board form(s) are available from the board's web site or upon request for your use.

An initial application is not complete and cannot be processed until all fees, required information described in subsection (5) of this section, ~~((and required))~~ or other documentation or information the board may deem necessary is received by the board. ~~((Upon completion of processing, a CPA firm license will be mailed to the main office at the last address provided to the board.))~~ On the date the application is approved, the firm's license will be included in the board's licensee data base and, therefore, made publicly available for confirmation. Confirmation of the approval of the firm's license will be mailed to the address of record with the board provided at the time of the application, or subsequently changed by formal notice to the board.

The initial CPA firm license will expire on June 30 of the third calendar year following initial licensure.

(6) How do I renew a CPA firm license? To renew a CPA firm license ~~((you must use the form(s) provided by the board. In January of the year of expiration, a renewal form(s) will be mailed to the main office at the last address provided to the board. You must submit a properly completed renewal form(s), all applicable fees and all required documentation to the board by April 30th of the year of expiration. Failure to file a complete renewal form for a firm license by April 30 of the year of expiration will result in late fees. The board may waive, reduce, or extend the due date of renewal and/or late fees based on individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment))~~ an owner or designee or, in the case of an out-of-state firm required to be licensed under RCW 18.04.195 (1)(a), an individual qualified for practice privileges in this state under RCW 18.04.350(2) who has been authorized by the applicant firm to make the application, must submit the information described in subsection (5) of this section that is current at the date the renewal application is submitted to the board. A renewal application is not complete and cannot be processed until all fees, required information, and required documentation ~~((is)), and other documentation deemed necessary by the board are~~ received by the board. ~~((Upon com-~~

pletion of processing, the CPA firm license will be mailed to the main office at the last address provided to the board.))

Board form(s) are available from the board's web site or upon request for your use. Failure to file a complete application for renewal of a firm license by April 30 of the year of expiration will result in late fees. The board may waive, reduce, or extend the due date of renewal and/or late fees based on reasonable cause including, but not limited to, financial hardship, critical illness, or active military deployment.

On the date the renewal application is approved, the firm's license will be included in the board's licensee data base and, therefore, made publicly available for confirmation. Confirmation of the validity of the renewed firm's license status will be mailed to the address of record with the board provided at the time of the application, or subsequently changed by formal notice to the board.

The CPA firm license will expire on June 30 of the third calendar year following the date of renewal.

(7) When and how must ~~((the))~~ the firm notify the board of changes in the ~~((CPA))~~ licensed firm? ~~((A CPA))~~ An individual authorized by the firm must provide the board written notification ~~((of the following))~~ and other documentation deemed necessary by the board within ninety days of ~~((its))~~ any or all of the following occurrences:

- (a) Dissolution of ~~((a CPA))~~ the firm;
- (b) The occurrence of any event that would cause the firm to be in violation of RCW 18.04.195 or this rule; or
- (c) An event that requires an amendment to a firm license.

(8) What events require a firm amendment? ~~((A CPA))~~ An individual authorized by the firm must provide written notification to the board, by submitting ~~((a firm amendment form))~~ the following information and the appropriate amendment fee, within ninety days of the following ~~((events' occurrence))~~:

- (a) Admission or departure of an owner;
- (b) Any change in the name of the firm; or
- (c) Change in the resident managing licensee of the main office in this state.

(9) How long do I have to correct noncompliance with licensure requirements due to a change in ownership or an owner's credentials? ~~((A CPA))~~ An individual authorized by the firm must notify the board within ninety days of any change in ownership or lapse of an owner's license, certificate, registration or practice privilege that has caused the firm's license to be out of compliance with licensure requirements and must correct the noncompliance within ninety days of the lapse, unless the board grants a longer time period due to ~~((individual hardship))~~ reasonable cause including, but not limited to, financial hardship, critical illness, or active military deployment.

AMENDATORY SECTION (Amending WSR 02-04-064, filed 1/31/02, effective 3/15/02)

WAC 4-25-752 How do I initially register to be a resident nonlicensee owner of a licensed firm and with which rules must a nonlicensee firm owner comply? To qualify as a nonlicensee owner of a licensed ~~((CPA))~~ firm, you must:

- (1) Be ~~((a natural person))~~ an individual;
- (2) Meet the good character requirements of RCW 18.04.105 (1)(a);
- (3) Comply with the act and board rules;
- (4) Be an active individual participant in the licensed firm or affiliated entities as these terms are defined in WAC 4-25-410; and
- (5) If you are a resident of Washington state, you must:
 - (a) File a complete registration with the board; and
 - (b) Demonstrate a passing grade of ninety percent or better on the AICPA professional ethics examination.

~~((To register as a resident nonlicensee firm owner, you must use the form(s) provided by the board. You need to fully complete the form(s) and submit the form(s), all applicable fees, and all required documentation to the board's office.))~~
You must submit your registration concurrent with or prior to submission of the firm license application or firm license amendment, pursuant to WAC 4-25-750.

An initial registration is not complete and cannot be processed until all fees, required documentation, required information, and other ~~((documentation))~~ information deemed necessary by the board are received by the board. ~~((When the processing of your registration is complete, your registration will be mailed to the last address you provided to the board.))~~

If you are a Washington state resident, you may not hold ownership interest in a CPA firm licensed in Washington state until you receive written notice from the board of your Washington state registration number. On the date the registration is approved, your registration number will be included in the board's licensee data base and, therefore, made publicly available for confirmation. Confirmation of the approval of your initial registration will be mailed to the address of record with the board provided at the time of the application, or subsequently changed by formal notice to the board.

Your initial registration will expire on June 30 of the third calendar year following initial issuance of the registration.

~~((You must submit your registration concurrent with or prior to submission of the firm license application or firm license amendment, pursuant to WAC 4-25-750. If you are a Washington state resident, you may not hold ownership interest in a CPA firm licensed in Washington state until you receive written notice from the board of your Washington state registration number.))~~

All nonlicensee firm owners are subject to discipline for violation of the act or board rules.

NEW SECTION

WAC 4-25-753 Must a firm holding a license from another state apply and obtain a Washington state license to hold out and practice in Washington state? (1) A firm license must be obtained from the board if any of the following criteria apply:

- (a) The firm has an office in this state and performs attest or compilation services for clients in this state;
- (b) The firm has an office in this state and, by any means, represents the firm to the public that the firm is a firm of certified public accountants; or

(c) The firm is licensed in another state and performs the following services for clients with a home office in this state:

- (i) Any audit or other engagement to be performed in accordance with the statements on auditing standards;
- (ii) Any examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements; and
- (iii) Any engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(2) A firm license is not required to perform other professional services in this state, including compilation, review and other services for which reporting requirements are provided in professional standards, if the firm complies with the following:

(a) The firm performs such services through individuals with practice privileges under RCW 18.04.350(2) and WAC 4-25-747 or reciprocal license under RCW 18.04.180 and 18.04.183 and board rules;

(b) The firm is licensed to perform such services in the state in which the individuals with practice privileges have their principal place of business; and

(c) The firm meets the board's quality assurance program requirements, when applicable.

(3) As a condition of this privilege, the nonresident firm is deemed to have consented to:

(a) The personal and subject matter jurisdiction and disciplinary authority of this state's board;

(b) Comply with the Public Accountancy Act of this state, chapter 18.04 RCW, and this board's rules, chapter 4-25 WAC;

(c) Cease offering or rendering professional services in this state through a specific individual or individuals if the license(s) of the individual(s) through whom the services are offered or rendered becomes invalid;

(d) Cease offering or rendering specific professional services in this state through an individual or individuals if the license(s) from the state(s) of the principal place of business of such individual(s) is restricted from offering or performing such specific professional services;

(e) The appointment of the state board which issued the firm license as their agent upon whom process may be served in any action or proceeding by this state's board against firm licensee;

(f) Not render those services described in subsection (1)(c) of this section for a client with a home office in this state unless the firm that has obtained a license from this state (RCW 18.04.195 and 18.04.295) and this section; and

(g) Not render any professional services in this state through out-of-state individual(s) who are not licensed to render such services by the state(s) in which the principal place of business of such individual(s) is (are) located.

AMENDATORY SECTION (Amending WSR 07-14-036, filed 6/26/07, effective 7/27/07)

WAC 4-25-820 What are the requirements for participating in quality assurance review (QAR)? (1) **Purpose.** The Washington state board of accountancy is charged with protection of the public interest and ensuring the

dependability of information used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private or governmental. The purpose of the QAR program is to monitor licensees' compliance with ~~(attest)~~ audit, compilation, review, and other attestation standards.

(2) Out-of-state firms otherwise qualified for practice privileges under RCW 18.04.195 (1)(b) are responsible for compliance with this section. These firms are exempt from the registration requirements set forth in this section.

(3) Structure and implementation.

(a) The board will annually appoint a quality assurance review committee to perform the following functions:

(i) Review of financial statements and the reports of licensees thereon to assess their compliance with applicable professional standards;

(ii) Review of licensees' reports and information covered by those reports for conformity with applicable professional standards;

(iii) Improvement of reporting practices of licensees through education and rehabilitative measures; and

(iv) Such other functions as the board may assign to the committee.

(b) Once every three years the board ~~(will)~~ requires ~~(each)~~ a licensed firm with an office in this state to participate in the board's quality assurance review program. ~~(Participating firms will be notified by the board in January of the reporting requirement, and)~~ Participating firms will be required to submit a quality assurance review status form, along with the appropriate fee, by the following April 30th. Failure to submit a complete quality assurance review status form postmarked by the April 30th due date, will result in the assessment of late fees. The board may waive late fees based on individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment.

(c) Each participating firm shall submit, for each of its offices, one licensee report and the information covered by that report, for each of the following types of service or any other service the board determines:

~~(*)~~ (i) Compilation report on historical financial statements;

~~(*)~~ (ii) Review report on historical financial statements;

~~(*)~~ (iii) Audit report on historical financial statements;

~~(*)~~ (iv) Agreed-upon procedures;

~~(*)~~ (v) Forecasts;

~~(*)~~ (vi) Internal controls;

~~(*)~~ (vii) Performance audits; and

~~(*)~~ (viii) Projections.

(d) A participating firm shall select these reports from all reports prepared during the twelve months preceding the date of board request or, if no reports have been issued within the last twelve months, from all reports during the preceding three years.

(e) If reports issued by all offices of a firm are reviewed and issued in a controlled, centralized process, only one each of the type of licensee reports, including the information covered by the reports, specified above need be submitted by the firm as a whole.

~~((f))~~ (f) The board may exempt from the requirement of (c) of this subsection any firm that has participated in a board-approved peer review program within the three years immediately preceding the date of board request.

~~((g))~~ (g) Firms requesting exemption must submit a copy of an unmodified report, letter of comments, response to letter of comments, if applicable, and letter of acceptance from the reviewing organization. Firms that receive modified peer review reports may request exemption, but must submit copies of such reports and related correspondence, at the discretion of the board, for consideration on an individual basis.

~~((h))~~ (h) Any documents submitted in accordance with (c) of this subsection may have the name of the client, the client's address, and other identifying factors omitted, provided that the omission does not render the type or nature of the entity undeterminable. Dates may not be omitted.

~~((i))~~ (i) Reports submitted to the committee pursuant to (c) of this subsection and comments of reviewers, the committee and the board on such reports or workpapers relating thereto, shall also be preserved in confidence except to the extent that they are communicated by the board to the licensees who issued the reports or disclosure is required under administrative procedure rules or by direction of a court of law.

~~((j))~~ (j) The committee's review of the licensee reports and other information covered by those reports shall be directed toward the following:

(i) Presentation of the financial statements covered by the licensee reports and/or other information covered by those reports in conformity with applicable professional standards for presentation and disclosure;

(ii) Compliance by licensees with applicable reporting standards; and

(iii) Compliance by licensees with the rules of the board and other regulations relating to the practice of public accounting.

~~((k))~~ (4) If the board determines that a report and/or other information covered by the report referred to the board by the committee is substandard or seriously questionable with respect to applicable professional standards, the board may take one or more of the following actions:

~~((a))~~ (a) Send the licensee a letter of comment detailing the perceived deficiencies and require the licensee to develop quality control procedures to ensure that similar occurrences will not occur in the future;

~~((b))~~ (b) Require any licensee who had responsibility for issuance of a report, or who substantially participated in preparation of the report and/or related workpapers, to successfully complete specific courses or types of continuing education as specified by the board;

~~((c))~~ (c) Require that the licensee responsible for a substandard report submit all or specified categories of its reports to a preissuance review in a manner and for a duration prescribed by the board. The cost of the preissuance review will be at the firm's expense;

~~((d))~~ (d) Require the licensee responsible for a substandard report to submit to a peer review conducted in accordance with standards acceptable to the board. The cost of the peer review will be at the licensee's expense;

~~((v))~~ (e) Require the licensee responsible for substandard work to submit to on-site field review or other investigative procedures of work product and practices by board representatives in order to assess the degree or pervasiveness of substandard work. The board may assess the costs of such field review or procedures to the licensee if the results of such investigative efforts substantiate the existence of substandard work product;

~~((vi))~~ (f) Initiate an investigation pursuant to RCW 18.04.295, 18.04.305, and/or 18.04.320.

~~((j))~~ (5) The board may solicit and review licensee reports and/or other information covered by the reports from clients, public agencies, banks, and other users of such information.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-830 What are the CPE requirements for individuals? (1) The following CPE is required for individuals during the three calendar year period prior to renewal:

(a) ~~((CPAs))~~ An individual licensed to practice in this state must complete 120 CPE credit hours which is limited to 24 CPE credit hours in nontechnical subject areas and must include 4 CPE credit hours in ethics meeting the requirements of subsection (3) of this section;

(b) A CPA-Inactive certificateholder or a resident nonlicensee firm owner must complete 4 CPE credit hours in ethics meeting the requirements of subsection (3) of this section; and

(c) Individuals holding practice privileges are exempt from the CPE requirements of this section.

(2) **CPE requirements for renewal of a license that was issued less than three years before the end of a CPA-Inactive certificate renewal cycle:** When you convert your status from a CPA-Inactive certificateholder to a licensee, your CPE reporting period (the three calendar year period prior to renewal) and renewal cycle will remain the same. The CPE requirements for renewal are as follows:

(a) If your license was issued during the first calendar year of your CPE reporting period, you must have completed 80 CPE credit hours which is limited to 16 CPE credit hours in nontechnical subject areas and must include 4 CPE credit hours in ethics meeting the requirements of subsection (3) of this section.

(b) If your license was issued during the second calendar year of your CPE reporting period, you must have completed 40 CPE credit hours which is limited to 8 CPE credit hours in nontechnical subject areas and must include 4 CPE credit hours in ethics meeting the requirements of subsection (3) of this section.

(c) If your license was issued during the third calendar year of your CPE reporting period, you must have completed 4 CPE credit hours in ethics meeting the requirements of subsection (3) of this section.

(3) **Ethics and regulations applicable to practice in Washington state:** During each CPE reporting period all ~~((CPAs))~~ individuals licensed in this state, individual CPA-Inactive certificateholders in this state, and resident nonlicensee firm owners are required to complete four CPE credit

hours in ~~((professional))~~ approved ethics and regulations with specific application to the practice of public accounting in Washington state ~~((; however, for CPE reporting periods beginning January 1, 2006, and later, during each CPE reporting period all CPAs, CPA-Inactive certificateholders, and resident nonlicensee firm owners are required to complete four hours in board approved ethics and regulations CPE)).~~ In order to be approved by the board, the CPE sponsor or instructor must submit documentation associated with the ethics and regulations CPE to the board for approval and the sponsor or instructor must obtain written approval from the board. The ethics and regulations CPE must cover all of the following topics, and the ethics and regulations CPE must substantially address these topics:

(a) Chapter 18.04 RCW and chapter 4-25 WAC. The CPE must include general level information on the Public Accountancy Act, the board's rules, policies, and the rule-making process.

(b) WAC 4-25-521 How can I contact the board?

(c) WAC 4-25-550 Do I need to notify the board if I change my address?

(d) WAC 4-25-551 Must I respond to inquiries from the board?

(e) WAC 4-25-600 Series—Ethics and prohibited practices. The CPE must include detailed information on each rule and all related board policies.

(f) WAC 4-25-800 Series—Continuing competency. The CPE must include detailed information on each rule and all related board policies.

(g) WAC 4-25-910 What are the bases for the board to impose discipline?

(h) AICPA Code of Conduct: The CPE must include general level information on the AICPA Code of Conduct.

(i) Variances or key differences between Washington state law (chapter 18.04 RCW and chapter 4-25 WAC) and the AICPA Code of Conduct.

(j) Other topics or information as defined by board policy.

(4) **CPE requirements to renew a retired license or CPA-Inactive certificate:**

(a) In order to renew ~~((your))~~ a retired license you must meet the CPE requirements of subsection (1)(a) of this section within the thirty-six month period immediately preceding the date the renewal application is received by the board; however, the four CPE hours in ethics meeting the requirements of subsection (3) of this section must be completed within the six-month period immediately preceding the date your renewal application was received by the board.

(b) In order to renew ~~((your))~~ a retired CPA-Inactive certificate, you must meet the CPE requirements of subsection (1)(b) of this section within the six-month period immediately preceding the date your renewal application was received by the board.

(5) **CPE requirements for a CPA-Inactive certificateholder to either qualify to apply for a license or return to their previously held status as a licensee:** If you hold a valid CPA-Inactive certificate and you wish to apply for a license or you want to return to your previously held status as a licensee, you must meet the CPE requirements of subsection (1)(a) of this section within the thirty-six month period

immediately preceding the date your application is received by the board.

(6) Reinstatement of a lapsed, suspended, or revoked license, certificate, or registration as resident nonlicensee firm owner:

(a) If you seek to reinstate a lapsed, suspended, or revoked license, you must satisfy the requirements of subsection (1)(a) of this section within the thirty-six month period immediately preceding the date the application for reinstatement was received by the board; however, the four CPE hours in ethics meeting the requirements of subsection (3) of this section must be completed within the six-month period immediately preceding the date your application for reinstatement was received by the board.

(b) If you seek to reinstate a lapsed, suspended, or revoked CPA-Inactive certificate, or registration as a resident nonlicensee firm owner, you must satisfy the requirements of subsection (1)(b) of this section within the six-month period immediately preceding the date your application for reinstatement was received by the board.

(7) Reciprocity: If you are applying for an initial Washington state CPA license under the reciprocity provisions of the act, you must satisfy the requirements in subsection (1)(a) of this section within the thirty-six month period immediately preceding the date your application was received by the board. For purposes of initial licensure, you do not need to satisfy the ethics requirements of subsection (1)(a) of this section. Thereafter, in order to renew your Washington state license, you must comply with all the renewal requirements in subsection (1)(a) of this section.

(8) CPE (~~(waiver)~~) extension request: In order to renew your license, CPA-Inactive certificate, or registration as a resident nonlicensee firm owner you must complete the required CPE by the end of the CPE reporting period preceding your renewal unless you can demonstrate your failure to meet the CPE requirements was due to reasonable cause. The board may provide limited extensions to the CPE requirements for reasons of individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment. You must request such an extension in writing (~~(on the form(s) provided by the board)~~). The request must include justification for the request and identify the specific CPE you plan to obtain to correct your CPE deficiency.

A form useful for this purpose is available from the board's web site or will be provided to you upon request.

AMENDATORY SECTION (Amending WSR 05-01-137, filed 12/16/04, effective 1/31/05)

WAC 4-25-910 What are the bases for the board to impose discipline? RCW 18.04.055, 18.04.295, (~~(and)~~) 18.04.305, and 18.04.350 authorize the board to revoke, suspend, refuse to issue, renew, or reinstate an individual or firm license, CPA-Inactive certificate, the right to exercise practice privileges in this state, or registration as a resident nonlicensee firm owner; impose a fine not to exceed thirty thousand dollars; recover investigative and legal costs; impose full restitution to injured parties; impose remedial sanctions; impose conditions precedent to renew; or prohibit a resident

nonlicensee from holding an ownership interest in a firm licensed (~~(firm)~~) in this state for the specific acts listed below.

The following are specific examples of prohibited acts that constitute grounds for discipline under RCW 18.04.295 (~~(and)~~), 18.04.305, and 18.04.350. The board does not intend this listing to be all inclusive.

(1) Fraud or deceit in applying for the CPA examination, obtaining a license, registering as a resident nonlicensee firm owner, (~~(submitting notification of practice privileges,)~~) or in any filings with the board.

(2) Fraud or deceit in renewing or requesting reinstatement of a license, CPA-Inactive certificate, registration as a resident nonlicensee firm owner (~~(or practices privileges)~~).

(3) Cheating on the CPA exam.

(4) Making a false or misleading statement in support of another (~~(s)~~) person's application or request to:

(a) Take the national uniform CPA examination (~~(application for)~~);

(b) Obtain a license (~~(s)~~) or registration required by the act or board;

(c) Reinstate or modify the terms of a revoked or suspended license, certificate, or registration as a resident nonlicensee firm owner (~~(submission of notification of)~~) in this state;

(d) Reinstate revoked or suspended practice privileges (~~(renewal, or reinstatement)~~) of an individual or firm licensed in another state.

(5) Dishonesty, fraud, or negligence while representing oneself as a (~~(CPA)~~) licensee, CPA-Inactive certificateholder, (~~(CPA firm)~~) or a resident nonlicensee firm owner including but not limited to:

(a) Practicing public accounting in Washington state prior to obtaining a license required by RCW 18.04.215 or 18.04.195;

(b) Offering or rendering public accounting services in this state by an out-of-state individual or firm not qualified for practice privileges under RCW 18.04.195 or 18.04.350 (2);

(c) Making misleading, deceptive, or untrue representations;

(~~(e)~~) (d) Engaging in acts of fiscal dishonesty;

(~~(d)~~) (e) Purposefully, knowingly, or negligently failing to file a report or record, or filing a false report or record, required by local, state, or federal law;

(~~(e)~~) (f) Unlawfully selling unregistered securities;

(~~(f)~~) (g) Unlawfully acting as an unregistered securities salesperson or broker-dealer;

(~~(g)~~) (h) Discharging a trustee's duties in a negligent manner or breaching one's fiduciary duties; or

(~~(h)~~) (i) Withdrawing or liquidating, as fees earned, funds received by a (~~(CPA)~~) licensee, (~~(CPA firm)~~) CPA-Inactive certificateholder, or a resident nonlicensee firm owner from a client as a deposit or retainer when the client contests the amount of fees earned, until such time as the dispute is resolved.

(6) The following shall be prima facie evidence that a (~~(CPA)~~) licensee, as defined in WAC 4-25-410, CPA-Inactive certificateholder, (~~(CPA firm, or)~~) a nonlicensee firm owner, or the employees of such persons has engaged in dishonesty, fraud, or negligence while representing oneself as a

~~((CPA)) licensee, as defined in WAC 4-25-410, CPA-Inactive certificateholder, ((CPA firm, or)) a nonlicensee firm owner, or an employee of such persons:~~

~~(a) An order of a court of competent jurisdiction finding that the ((CPA, CPA Inactive certificateholder, CPA firm, or the nonlicensee firm owner to have)) person or persons committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on ((a CPA's, CPA Inactive certificateholder's, CPA firm's, or nonlicensee firm owner's)) the person's fitness to represent himself ((or)), herself, or itself as a ((CPA)) licensee, as defined in WAC 4-25-410, CPA-Inactive certificateholder((s, CPA firm)), or a nonlicensee firm owner;~~

~~(b) An order of a federal, state, local or foreign jurisdiction regulatory body, or ((the)) a PCAOB, finding that the ((CPA)) licensee, as defined in WAC 4-25-410, CPA-Inactive certificateholder, ((CPA firm,)) or nonlicensee firm owner ((to have)), or employee of such persons committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on ((a CPA's, CPA Inactive certificateholder's, the nonlicensee firm owner's, or CPA firm's)) the person's fitness to represent himself, herself, or itself as a ((CPA)) licensee, as defined in WAC 4-25-410, a CPA-Inactive certificateholder, or a nonlicensee firm owner((, or a CPA firm));~~

~~(c) Cancellation, revocation, suspension, or refusal to renew the right to practice as a ((CPA)) licensee, ((CPA Inactive)) certificateholder, or a nonlicensee firm owner by any other state for any cause other than failure to pay a fee or to meet the requirements of continuing education in the other state; or~~

~~(d) Suspension or revocation of the right to practice before any state agency, federal agency, or the PCAOB.~~

~~(7) Sanctions and orders entered by a nongovernmental professionally related standard-setting body for violation of ethical or technical standards in the practice of public accounting by a licensee, CPA-Inactive certificateholder, or nonlicensee firm owner;~~

~~(8) Any state or federal criminal conviction or commission of any act constituting a crime under the laws of this state, or of another state, or of the United States.~~

~~((8)) (9) A conflict of interest such as:~~

~~(a) Self dealing as a trustee, including, but not limited to:~~

~~(i) Investing trust funds in entities controlled by or related to the trustee;~~

~~(ii) Borrowing from trust funds, with or without disclosure; and~~

~~(iii) Employing persons related to the trustee or entities in which the trust has a beneficial interest to provide services to the trust (unless specifically authorized by the trust creation document).~~

~~(b) Borrowing funds from a client unless the client is in the business of making loans of the type obtained by the ((CPA)) licensee, as defined in WAC 4-25-410, CPA-Inactive certificateholder, ((CPA firm,)) or nonlicensee firm owner and the loan terms are not more favorable than loans extended to other persons of similar credit worthiness.~~

~~((9)) (10) A violation of the Public Accountancy Act or failure to comply with a board rule contained in chapter 4-25 WAC, by a licensee, defined in WAC 4-25-410, CPA-Inactive certificateholder, or employees of such persons of this~~

state or a licensee of another substantially equivalent state qualified for practice privileges, including but not limited to:

(a) An out-of-state individual exercising the practice privileges authorized by RCW 18.04.350(2) when not qualified;

(b) Submission of an application for firm license on behalf of a firm licensed in another state and required to obtain a license under RCW 18.04.195 (1)(a)(iii) by an out-of-state individual not qualified under RCW 18.04.350(2) or authorized by the firm to make such application;

(c) Failure of an out-of-state individual exercising the practice privileges authorized under RCW 18.04.350(2) to cease offering or performing professional services in this state, individually or on behalf of a firm, when the license from the state of the out-of-state individual's principal place of business is no longer valid;

(d) Failure of an out-of-state individual exercising the practice privileges authorized under RCW 18.04.350(2) to cease offering or performing specific professional services in this state, individually or on behalf of a firm, when the license from the state of the out-of-state individual's principal place of business has been restricted from performing those specific services;

(e) Failure of a firm not licensed in this state to cease offering or performing professional services in this state through one or more out-of-state individuals whose license from the state of those individuals' principal place(s) of business is (are) no longer valid or is (are) otherwise restricted from performing the specific engagement services;

(f) Failure of a licensed firm to comply with the ownership requirements of RCW 18.04.195 within a reasonable time period, as determined by the board;

(g) Failure of a firm licensed in this state or another state to comply with the board's quality assurance program requirements, when applicable.

~~((10)) (11) Violation of one or more of the rules of professional conduct included in chapter 4-25 WAC ((or)).~~

~~(12) Concealing another's violation of the Public Accountancy Act or board rules.~~

~~((11)) (13) Failure to cooperate with the board by failing to:~~

~~(a) Furnish any papers or documents requested or ordered to produce by the board;~~

~~(b) Furnish in writing a full and complete explanation related to a complaint as requested by the board;~~

~~(c) Respond to an inquiry of the board;~~

~~(d) Respond to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding.~~

~~((12)) (14) Failure to comply with an order of the board.~~

~~((13) A CPA's, CPA Inactive certificateholder's, or nonlicensee firm owner's) (15) Adjudication of a licensee, as defined by WAC 4-25-410, CPA-Inactive certificateholder, or a nonlicensee firm owner as mentally incompetent is prima facie evidence that the ((CPA, CPA Inactive certificateholder, or nonlicensee firm owner)) person lacks the professional competence required by the rules of professional conduct.~~

~~((14))~~ (16) Failure of a licensee, as defined by WAC 4-25-410, CPA-Inactive certificateholder, ~~((or))~~ nonlicensee firm owner, or out-of-state person exercising practice privileges authorized by RCW 18.04.195 and 18.04.350 to timely notify the board, ~~((on a form and))~~ in the manner prescribed by the board ~~((policy, within thirty days))~~, of any of the ~~((issuance of))~~ following:

(a) A sanction, order, suspension, revocation, or modification of a license, certificate, permit or practice rights by the SEC, PCAOB, IRS, or another state board of accountancy for any cause other than failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy; ~~((or))~~

(b) Charges filed by the SEC, IRS, PCAOB, another state board of accountancy, or a federal or state taxing, insurance or securities regulatory body that the licensee, CPA-Inactive certificateholder, or nonlicensee firm owner committed a prohibited act that would be a violation of board ethical or technical standards;

(c) Sanctions or orders entered against such persons by a nongovernmental professionally related standard-setting body for violation of ethical or technical standards in the practice of public accounting by a licensee, CPA-Inactive certificateholder, or nonlicensee firm owner.

WSR 08-18-029

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed August 27, 2008, 2:49 p.m., effective September 27, 2008]

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

Purpose: The proposed rule does the following:

- Clearly states the department determines the appropriate payment enhancement percentage for physician trauma services.
- Ensures the deadline for adjusting qualified trauma claims submitted to the health and recovery services.
- Administration by physicians and other clinical providers are consistent with the deadline for trauma claims submitted by hospitals.
- Adds cross-references to WAC 388-502-0150 (3) and (7) for clarification.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-531-2000.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500.

Other Authority: Chapter 43.20A RCW.

Adopted under notice filed as WSR 08-05-105 on February 19, 2008.

A final cost-benefit analysis is available by contacting Jonell O. Blatt, P.O. Box 45504, Olympia, WA 98504-5504, phone (360) 725-1571, fax (360) 586-9727, e-mail blattj@dshs.wa.gov. The preliminary cost-benefit analysis (CBA) stands as the final CBA.

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 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: August 27, 2008.

Robin Arnold-Williams
Secretary

AMENDATORY SECTION (Amending WSR 05-20-050, filed 9/30/05, effective 10/31/05)

WAC 388-531-2000 Increased payments for physician-related services for qualified trauma cases. (1) The department's trauma care fund (TCF) is an amount that is legislatively appropriated to DSHS each biennium for the purpose of increasing the department's payment to eligible physicians and other clinical providers for providing qualified trauma services to Medicaid, general assistance-unemployable (GA-U), and Alcohol and Drug Addiction Treatment and Support Act (ADATSA) fee-for-service clients. Claims for trauma care provided to clients enrolled in the department's managed care programs are not eligible for increased payments from the TCF.

(2) Beginning with services provided after June 30, 2003, the department makes increased payments from the TCF to physicians and other clinical providers who provide trauma services to Medicaid, GA-U, and ADATSA clients, subject to the provisions in this section. A provider is eligible to receive increased payments from the TCF for trauma services provided to a GA-U or ADATSA client during the client's certification period only. See WAC 388-416-0010.

(3) The department makes increased payments from the TCF to physicians and other clinical providers who:

(a) Are on the designated trauma services response team of any department of health (DOH)-designated trauma service center;

(b) Meet the provider requirements in this section and other applicable WAC;

(c) Meet the billing requirements in this section and other applicable WAC; and

(d) Submit all information the department requires to ensure trauma services are being provided.

(4) Except as described in subsection (5) of this section and subject to the limitations listed, the department makes increased payments from the TCF to physicians and other eligible clinical providers:

(a) For only those trauma services that are designated by the department as "qualified." These qualified services must

be provided to eligible fee-for-service Medicaid, GA-U, and ADATSA clients. Qualified trauma services include care provided within six months of the date of injury for surgical procedures related to the injury if the surgical procedures were planned during the initial acute episode of injury.

(b) For hospital-based services only.

(c) Only for trauma cases that meet the injury severity score (ISS) (a summary rating system for traumatic anatomic injuries) of:

(i) Thirteen or greater for an adult trauma patient (a client age fifteen or older); or

(ii) Nine or greater for a pediatric trauma patient (a client younger than age fifteen).

(d) On a per-client basis in any DOH designated trauma service center.

(e) At a rate of two and one-half times the current department fee-for-service rate for qualified trauma services, ~~((subject to the following:))~~ or other payment enhancement percentage the department determines as appropriate.

(i) The department monitors the increased payments from the TCF during each state fiscal year (SFY) and makes necessary adjustments to the rate to ensure that total payments from the TCF for the biennium will not exceed the legislative appropriation for that biennium.

(ii) Laboratory and pathology charges are not eligible for increased payments from the TCF. (See subsection (6)(b) of this section.)

(5) When a trauma case is transferred from one hospital to another, the department makes increased payments from the TCF to physicians and other eligible clinical providers, according to the ISS score as follows:

(a) If the transferred case meets or exceeds the appropriate ISS threshold described in subsection (4)(c) of this section, eligible providers who furnish qualified trauma services in both the transferring and receiving hospitals are eligible for increased payments from the TCF.

(b) If the transferred case is below the ISS threshold described in subsection (4)(c) of this section, only the eligible providers who furnish qualified trauma services in the receiving hospital are eligible for increased payments from the TCF.

(6) The department distributes increased payments from the TCF only:

(a) When eligible trauma claims are submitted with the appropriate trauma indicator within the time frames specified by the department; and

(b) On a per-claim basis. Each qualifying trauma service and/or procedure on the physician's claim or other clinical provider's claim is paid at the department's current fee-for-service rate, multiplied by an increased TCF payment rate that is based on the appropriate rate described in subsection (4)(e) of this section. Charges for laboratory and pathology services and/or procedures are not eligible for increased payments from the TCF and are paid at the department's current fee-for-service rate.

(7) For purposes of the increased payments from the TCF to physicians and other eligible clinical providers, all of the following apply:

(a) The department may consider a request for a claim adjustment submitted by a provider only if the claim is

received by the department within one year from the date of the initial trauma service;

(b) The department does not allow any carryover of liabilities for an increased payment from the TCF ~~((after a date specified by the department as the last date to make))~~ beyond three hundred sixty-five days from the date of service. The deadline for making adjustments to a trauma claim for an SFY is the same as the deadline for submitting the initial claim to the department as specified in WAC 388-502-0150(3). WAC 388-502-0150(7) does not apply ((in this case)) to TCF claims;

(c) All claims and claim adjustments are subject to federal and state audit and review requirements; and

(d) The total amount of increased payments from the TCF disbursed to providers by the department in a biennium cannot exceed the amount appropriated by the legislature for that biennium. The department has the authority to take whatever actions are needed to ensure the department stays within the current TCF appropriation (see subsection (4)(e)(i) of this section).

WSR 08-18-033
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

(Securities Division)

[Filed August 27, 2008, 3:32 p.m., effective September 27, 2008]

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

Purpose: The securities division is revising the requirements for investment advisers that have custody of client funds or securities set forth in WAC 460-24A-105 and codifying the requirements for investment advisers that have custody because they have the authority to deduct fees from client accounts, they manage a pooled investment vehicle or trust, or they act as trustee and investment adviser to a trust. In addition, the division is adopting a set of related definitions and certain exceptions from the custody requirements.

Citation of Existing Rules Affected by this Order:
Amending WAC 460-24A-105 and 460-24A-170.

Statutory Authority for Adoption: RCW 21.20.450, 21.20.900, 21.20.100, 21.20.050 - [21.20].060.

Adopted under notice filed as WSR 08-10-081 on May 6, 2008.

Changes Other than Editing from Proposed to Adopted Version: In response to comments received from Aaron Westlund, Manager of Poorman Creek Capital Advisors, LLC, and Marin E. Gibson, Managing Director and Counsel, State Government Affairs, Securities Industry and Financial Markets Association, the text of the rules adopted by the division vary from that proposed at WSR 08-10-081 as follows:

- The introductory clauses of proposed WAC 460-24A-105 through 460-24A-109 were revised to clarify that these rules apply only to investments advisers registered or required to be registered under RCW 21.20.040;
- The text of proposed WAC 460-24A-105 (2)(a)(ii) was revised to clarify that client funds and securities

may be held in segregated accounts in the name of pooled investment vehicles;

- The text of proposed WAC 460-24A-105(2) was revised to clarify that "financial institutions," rather than just banks, may serve as qualified custodians;
- The text of proposed WAC 460-24A-105(3) was revised to clarify that investment advisers registered or required to be registered with the division must notify their clients who beneficially own interests in pooled investment vehicles of the name of the qualified custodian;
- The text of proposed WAC 460-24A-105 (4)(b)(i) was revised to clarify that account statements are required no less often than quarterly but investment advisers may voluntarily provide account statements more frequently;
- The text of proposed WAC 460-24A-105 (4)(b)(ii) was revised to replace "examination report and financial statements" with "special examination report" with the intent of eliminating any confusion that may lead to the misinterpretation of this section to require the filing of a full set of audited financial statements;
- The text of proposed WAC 460-24A-107 (1)(b) was revised to clarify that it is the financial statements of the pooled investment vehicle that are subject to audit; and
- The text of proposed WAC 460-24A-107(1) was revised to clarify that the requirements of that rule must be satisfied "unless provided otherwise in this chapter."

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 5, Amended 2, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 2, Repealed 0.

Date Adopted: August 27, 2008.

Scott Jarvis
Director

NEW SECTION

WAC 460-24A-005 Definitions. For purposes of this chapter:

(1) **"Custody"** means holding, directly or indirectly, client funds or securities, or having any authority to obtain possession of them or the ability to appropriate them.

(a) "Custody" includes:

(i) Possession of client funds or securities unless received inadvertently and returned to the sender promptly, but in any case within three business days of receiving them;

(ii) Any arrangement (including a general power of attorney) under which an investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon an investment adviser's instruction to the custodian; and

(iii) Any capacity (such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust) that gives an investment adviser or its supervised person legal ownership of or access to client funds or securities.

(b) Receipt of checks drawn by clients and made payable to unrelated third parties will not meet the definition of custody if forwarded to the third party within twenty-four hours of receipt and the adviser maintains a ledger or other listing of all securities or funds held or obtained inadvertently, including the following information:

(i) Issuer;

(ii) Type of security and series;

(iii) Date of issue;

(iv) For debt instruments, the denomination, interest rate, and maturity date;

(v) Certificate number, including alphabetical prefix or suffix;

(vi) Name in which registered;

(vii) Date given to the adviser;

(viii) Date sent to client or sender;

(ix) Form of delivery to client or sender, or copy of the form of delivery to client or sender; and

(x) Mail confirmation number, if applicable, or confirmation by client or sender of the fund's or security's return.

(2) **"Independent party"** means a person who:

(a) Is engaged by an investment adviser to act as a gatekeeper for the payment of fees, expenses, and capital withdrawals from a pooled investment;

(b) Does not control and is not controlled by and is not under common control with the investment adviser; and

(c) Does not have, and has not had within the past two years, a material business relationship with the investment adviser.

(3) **"Independent representative"** means a person who:

(a) Acts as an agent for an advisory client, including in the case of a pooled investment vehicle, for limited partners of a limited partnership, members of a limited liability company, or other beneficial owners of another type of pooled investment vehicle and by law or contract is obliged to act in the best interest of the advisory client or the limited partners or members, or other beneficial owners;

(b) Does not control, is not controlled by, and is not under common control with the investment adviser;

(c) Does not have, and has not had within the past two years, a material business relationship with the investment adviser.

(4) **"Qualified custodian"** means the following independent institutions or entities:

(a) A bank as defined in section 202 (a)(2) of the Advisers Act, 15 U.S.C. 80b-2 (a)(2), or a savings association as defined in section 3 (b)(1) of the Federal Deposit Insurance Act, 12 U.S.C. 1813 (b)(1), that has deposits insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act, 12 U.S.C. 1811;

(b) A broker-dealer registered under section 15 (b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78o (b)(1), holding the client assets in customer accounts;

(c) A futures commission merchant registered under section 4f(a) of the Commodity Exchange Act, 7 U.S.C. 6f(a), holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon;

(d) A foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets; and

(e) The transfer agent for an open-end company as defined in section 5 (a)(1) of the Investment Company Act of 1940, 15 U.S.C. 80a-5 (a)(1), only with respect to shares of the open-end company.

AMENDATORY SECTION (Amending WSR 01-16-125, filed 7/31/01, effective 10/24/01)

WAC 460-24A-105 Requirements for an investment adviser that has custody or possession of client funds or securities ((of clients)). If you are an investment adviser registered or required to be registered under RCW 21.20.040, it shall constitute an "act, practice, or course of business" which operates or would operate as a fraud within the meaning of RCW 21.20.020 for ((any investment adviser who has)) you to have custody ((or possession)) of ((any)) client funds or securities ((in which any client has any beneficial interest to do any act or take any action, directly or indirectly, with respect to any such funds or securities;)) unless:

(1) ~~((All such securities of each such client are segregated, marked to identify the particular client who has the beneficial interest therein, and held in safekeeping in some place reasonably free from risk of destruction or other loss; and~~

(2)(a) ~~All such funds of such clients are deposited in one or more bank accounts which contain only clients' funds;~~

(b) ~~Such account or accounts are maintained in the name of the investment adviser as agent or trustee for such clients; and~~

(c) ~~The investment adviser))~~ **You notify the director.** You notify the director promptly on Form ADV that you have or may have custody:

(2) A qualified custodian maintains your clients' funds and securities.

(a) A qualified custodian maintains your clients' funds and securities:

(i) In a separate account for each client under that client's name; or

(ii) In accounts that contain only your clients' funds and securities, under either your name as agent or trustee for the

clients or, in the case of a pooled investment vehicle that you manage, in the name of the pooled investment vehicle; and

(b) You maintain((s)) a separate record for each such account which shows the name and address of the ((bank)) qualified custodian where such account is maintained, the dates and amounts of deposits in and withdrawals from such account, and the exact amount of each client's beneficial interest in such account; ((and))

(3) ~~((Such investment adviser, immediately after accepting custody or possession of such funds or securities from any client, notifies such))~~ **You notify clients of the identity of the qualified custodian.** If you open an account with a qualified custodian on your client's behalf, either under the client's name, under your name as agent, or under the name of a pooled investment vehicle, you notify the client in writing of the ((place)) qualified custodian's name, address, and the manner in which ((such)) the funds ((and)) or securities ((will be)) are maintained, ((and thereafter, if and when there is any change in the place or manner in which such funds or securities are being maintained, gives each such client written notice thereof)) promptly when the account is opened and following any changes to this information; ((and))

(4) ~~((Such investment adviser sends to each client, not less frequently than once every three months, an itemized statement showing the funds and securities in the custody or possession of the investment adviser at the end of such period and all debits, credits and transactions in such client's account during such period; and~~

(5) ~~All such))~~ **Either you or a qualified custodian sends account statements to your clients.** You or a qualified custodian sends your clients account statements subject to the following requirements:

(a) **Requirements if qualified custodian sends account statements.** If you do not send account statements to your clients, you have a reasonable basis for believing that the qualified custodian sends an account statement, at least quarterly, to each of your clients for which the qualified custodian maintains funds or securities, identifying the amount of funds and of each security in the account at the end of the period and setting forth all transactions in the account during that period:

(b) **Requirements if you send account statements.** If the qualified custodian does not send account statements to your clients:

(i) You send account statements, at least quarterly, to each of your clients for whom you have custody of funds or securities, identifying the amount of funds and of each security of which you have custody at the end of the period and setting forth all transactions during that period:

(ii) An independent certified public accountant verifies all client funds and securities ((of clients are verified)) by actual examination at least once during each calendar year ((by an independent certified public accountant or public accountant)) at a time ((which shall be)) that is chosen by ((such)) the accountant without prior notice or announcement to ((the investment adviser. A certificate of such accountant stating that he has made an examination of such funds and securities, and describing the nature and extent of such examination shall be filed with the director promptly after each such examination)) you and that is irregular from year to

year, and files a copy of the special examination report with the director within thirty days after the completion of the examination, stating that it has examined the funds and securities and describing the nature and extent of the examination; and

(iii) The independent certified public accountant, upon finding any material discrepancies during the course of the examination, notifies the director within one business day of the finding, by means of a facsimile transmission or electronic mail, followed by first class mail, directed to the attention of the director; and

(c) Account statements are sent to limited partners and members of limited liability companies that you advise. If you are a general partner of a limited partnership (or managing member of a limited liability company, or hold a comparable position for another type of pooled investment vehicle), the account statements required under this subsection are sent to each limited partner (or member or other beneficial owner); and

(5) A client may designate an independent representative to receive account statements. A client may designate an independent representative to receive, on his or her behalf, notices and account statements as required under subsections (3) and (4) of this section.

NEW SECTION

WAC 460-24A-106 Additional custody requirements for an investment adviser that directly deducts fees from client accounts. (1) If you are an investment adviser registered or required to be registered under RCW 21.20.040 who has custody as defined in WAC 460-24A-005(1) solely because you have the authority to directly deduct fees from client accounts, you must comply with the safekeeping requirements in WAC 460-24A-105 and the following additional safeguards:

(a) **You must have your client's written authorization.** You must have written authorization from your client to deduct advisory fees from the account held with the qualified custodian.

(b) **You must provide notice to the qualified custodian and an itemized invoice to your client.** Each time a fee is directly deducted from your client's account, you must concurrently:

(i) Send the qualified custodian notice of the amount of the fee to be deducted from your client's account; and

(ii) Send your client an invoice itemizing the fee. Itemization includes the formula used to calculate the fee, the amount of assets under management the fee is based on, and the time period covered by the fee.

(c) **You must notify the director that you will comply with these safekeeping requirements.** You must notify the director on Form ADV that you will comply with the safekeeping requirements set forth in this section.

(2) **Waiver of net worth and bonding requirements.** If you have custody as defined in WAC 460-24A-005(1) solely because you have the authority to have fees directly deducted from client accounts and you comply with the safekeeping requirements set forth in this section, you are not required to comply with the net worth and bonding require-

ments for an investment adviser that has custody set forth in WAC 460-24A-170.

NEW SECTION

WAC 460-24A-107 Custody requirements for an investment adviser that manages a pooled investment vehicle or trust. (1) If you are an investment adviser registered or required to be registered under RCW 21.20.040 that has custody as defined in WAC 460-24A-005 (1)(a)(iii), you must either:

(a) **Comply with additional safekeeping requirements.** In addition to the safekeeping requirements set forth in WAC 460-24A-105, you must comply with the following safekeeping requirements:

(i) **You must engage an independent party to authorize withdrawals from the pooled account.** You must hire an independent party to review all fees, expenses, and capital withdrawals from the pooled account;

(ii) **You must send detailed invoices or receipts to the independent party.** You must send all invoices or receipts to the independent party, detailing the amount of the fee, expenses, or capital withdrawal and the method of calculation such that the independent party can:

(A) Determine that the payment is in accordance with the pooled investment vehicle standards (generally the partnership agreement or membership agreement); and

(B) Forward, to the qualified custodian, approval for payment of the invoice with a copy to the investment adviser; and

(iii) **You must notify the director that you will comply with these additional safekeeping requirements.** You must notify the director on Form ADV that you will comply with the safekeeping requirements in (a) of this subsection; or

(b) **You must provide audited financial statements of the pooled investment vehicle to all limited partners or members.** If you do not comply with the safekeeping requirements set forth in WAC 460-24A-105 and (a) of this subsection, you must comply with the following alternative safekeeping requirements:

(i) **The pooled investment vehicle must be subject to annual audits.** You must cause the financial statements of the limited partnership (or limited liability company, or another type of pooled investment vehicle) for which you are a general partner (or managing member or other comparable position) to be subject to audit, at least annually, by an independent certified public accountant to be conducted in accordance with generally accepted auditing standards;

(ii) **You must distribute audited financial statements for the pooled investment vehicle to all beneficial owners.** You must distribute audited financial statements prepared in accordance with generally accepted accounting principles for the limited partnership (or limited liability company, or another type of pooled investment vehicle) for which you are a general partner (or managing member or other comparable position) to all limited partners (or members or other beneficial owners) within one hundred twenty days of the end of its fiscal year; and

(iii) **You must notify the director that you will distribute audited financial statements of the pooled investment vehicle to all beneficial owners.** You must notify the director on Form ADV that you will comply with the safekeeping requirements in (b)(i) and (ii) of this subsection.

(2) **If you comply with the additional safekeeping requirements, you are not required to comply with the net worth and bonding requirements.** If you have custody solely as defined in WAC 460-24A-105 (1)(a)(iii) and you comply with the safekeeping requirements in WAC 460-24A-105 and subsection (1)(a) of this section, you are not required to comply with the net worth and bonding requirements for an investment adviser that has custody set forth in WAC 460-24A-170.

(3) **If you distribute audited financial statements of the pooled investment vehicle to all beneficial owners, you are not required to comply with the surprise examination requirements.** You are not required to comply with WAC 460-24A-105 (4)(b)(ii) and (iii) with respect to the account of a limited partnership (or limited liability company, or another type of pooled investment vehicle) that is subject to audit if you comply with subsection (1)(b) of this section.

NEW SECTION

WAC 460-24A-108 Custody requirements for an investment adviser that acts as trustee and investment adviser to a trust. If you are an investment adviser registered or required to be registered under RCW 21.20.040 that acts as an investment adviser to a trust and the trust has retained you or one of your representatives, employees, directors, or owners as trustee, you must comply with the following requirements:

(1) **You must send invoices to the qualified custodian and a person connected to the trust at the same time.** You must send to the grantor of the trust, the attorney for the trust if it is a testamentary trust, the co-trustee (other than you or one of your representatives, employees, directors, or owners); or a defined beneficiary of the trust, at the same time that you send any invoice to the qualified custodian, an invoice showing the amount of the trustees' fee or investment management or advisory fee, the value of the assets on which the fees were based, and the specific manner in which the fees were calculated.

(2) **You must have an agreement with a qualified custodian that contains certain terms.** You must enter into a written agreement with a qualified custodian that complies with the following requirements:

(a) **The agreement must restrict payments to you or persons related to you.** The agreement must specify that the qualified custodian will neither deliver trust securities nor transmit any funds to you or one of your representatives, employees, directors, or owners, except that the qualified custodian may pay trustees' fees to the trustee and investment management or advisory fees to you, provided that:

(i) The grantor of the trust or attorneys for the trust, if it is a testamentary trust, the co-trustee (other than you or one of your representatives, employees, directors, or owners), or a defined beneficiary of the trust has authorized the qualified custodian in writing to pay those fees;

(ii) The statements for those fees show the amount of the fees for the trustee and, in the case of statements for investment management or advisory fees, show the value of the trust assets on which the fee is based and the manner in which the fee was calculated; and

(iii) The qualified custodian agrees to send to the grantor of the trust, the attorneys for a testamentary trust, the co-trustee (other than you or one of your representatives, employees, directors, or owners); or a defined beneficiary of the trust, at least quarterly, a statement of all disbursements from the account of the trust, including the amount of investment management fees paid to you and the amount of trustees' fees paid to the trustee.

(b) **The agreement must restrict the transfer of funds or securities.** Except as otherwise set forth in subsection (1)(b)(i) of this section, the agreement must specify that the qualified custodian may transfer funds or securities, or both, of the trust only upon the direction of the trustee (who may be you or one of your representatives, employees, directors, or owners), who you have duly accepted as an authorized signatory. The grantor of the trust or attorneys for the trust, if it is a testamentary trust, the co-trustee (other than you or one of your representatives, employees, directors, or owners), or a defined beneficiary of the trust, must designate the authorized signatory for management of the trust. The agreement must further specify that the direction to transfer funds or securities, or both, can only be made to the following:

(i) To a trust company, bank trust department or brokerage firm independent from you for the account of the trust to which the assets relate;

(ii) To the named grantors or to the named beneficiaries of the trust;

(iii) To a third person independent from you in payment of the fees or charges of the third person including, but not limited to:

(A) Attorney's, accountant's, or qualified custodian's fees for the trust; and

(B) Taxes, interest, maintenance, or other expenses, if there is property other than securities or cash owned by the trust;

(iv) To third persons independent from you for any other purpose legitimately associated with the management of the trust; or

(v) To a broker-dealer in the normal course of portfolio purchases and sales, provided that the transfer is made on payment against delivery basis or payment against trust receipt.

(3) **You must notify the director that you will comply with these safekeeping requirements.** You must notify the director on Form ADV that you will comply with the safekeeping requirements set forth in this section.

(4) **You are not required to comply with the net worth and bonding requirements if you comply with these safekeeping requirements.** If you have custody solely as defined in WAC 460-24A-005 (1)(a)(iii) because you are the trustee of a trust and you comply with the safekeeping requirements in WAC 460-24A-105 and this section, you are not required to comply with the net worth and bonding requirements for an investment adviser that has custody set forth in WAC 460-24A-170.

NEW SECTION

WAC 460-24A-109 Exceptions from custody requirements. Exceptions from the custody requirements for investment advisers that are registered or required to be registered under RCW 21.20.040 are available in the following circumstances:

(1)(a) **You are not required to comply with the custody requirements for certain privately offered securities.** You are not required to comply with WAC 460-24A-105 through 460-24A-108 with respect to securities that are:

(i) Acquired from the issuer in a transaction or chain of transactions not involving any public offering;

(ii) Uncertificated, and ownership thereof is recorded only on books of the issuer or its transfer agent in the name of the client; and

(iii) Transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

(b) Notwithstanding (a) of this subsection, the provisions of this subsection (1) are available with respect to securities held for the account of a limited partnership (or limited liability company, or other type of pooled investment vehicle) only if you comply with the requirements in WAC 460-24A-107 (1)(b).

(2) **You are not required to comply with the custody requirements with respect to the account of a registered investment company.** You are not required to comply with WAC 460-24A-105 through 460-24A-108 with respect to the account of an investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 to 80a-64.

(3) **You are not required to comply with the custody requirements with respect to a trust for the benefit of your relative.** You are not required to comply with the safekeeping requirements of WAC 460-24A-105 through 460-24A-108 or the net worth and bonding requirements for an investment adviser that has custody set forth in WAC 460-24A-170 if you have custody solely because you or one of your representatives, employees, directors, or owners is a trustee for a beneficial trust, if all of the following conditions are met for each trust:

(a) The beneficial owner of the trust is your parent, a grandparent, a spouse, a sibling, a child, or a grandchild. These relationships shall include "step" relationships.

(b) For each account under (a) of this subsection, you comply with the following:

(i) You provide a written statement to each beneficial owner of the account setting forth a description of the requirements of WAC 460-24A-105 through 460-24A-108 and WAC 460-24A-170 and the reasons why you will not be complying with those requirements;

(ii) You obtain from each beneficial owner a signed and dated statement acknowledging the receipt of the written statement required under (b)(i) of this subsection; and

(iii) You maintain a copy of both documents described in (b)(i) and (ii) of this subsection until the account is closed or you are no longer trustee.

AMENDATORY SECTION (Amending WSR 01-16-125, filed 7/31/01, effective 10/24/01)

WAC 460-24A-170 Minimum financial requirements for investment advisers. (1) An investment adviser registered or required to be registered under RCW 21.20.040, who has custody of client funds or securities, shall maintain at all times a minimum net worth of \$35,000 unless provided otherwise in this chapter. An investment adviser registered or required to be registered under RCW 21.20.040, who has discretionary authority over client funds or securities, but does not have custody of client funds or securities, shall maintain at all times a minimum net worth of \$10,000.

(2) An investment adviser registered or required to be registered under RCW 21.20.040 who has custody or discretion of client funds or securities, but does not meet the minimum net worth requirements in subsection (1) of this section shall be bonded in the amount of the net worth deficiency rounded up to the nearest \$5,000. Any bond required by this section shall be in the form determined by the director, issued by a company qualified to do business in this state, and shall be subject to the claim of all clients of the investment adviser regardless of the client's state of residence.

(3) An investment adviser registered or required to be registered under RCW 21.20.040, who accepts prepayment of more than \$500 per client and six or more months in advance, shall maintain at all times a positive net worth.

(4) Unless otherwise exempted, as a condition of the right to transact business in this state, every investment adviser registered or required to be registered under RCW 21.20.040 shall, by the close of business on the next business day, notify the director if the investment adviser's net worth is less than the minimum required. After transmitting such notice, each investment adviser shall file, by the close of business on the next business day, a report with the director of its financial condition, including the following:

(a) A trial balance of all ledger accounts;

(b) A statement of all client funds or securities which are not segregated;

(c) A computation of the aggregate amount of client ledger debit balances; and

(d) A statement as to the number of client accounts.

(5) For purposes of this section, the term "net worth" shall mean an excess of assets over liabilities, as determined by generally accepted accounting principles, but shall not include as assets: Prepaid expenses (except as to items properly classified as assets under generally accepted accounting principles), deferred charges, goodwill, franchise rights, organizational expenses, patents, copyrights, marketing rights, unamortized debt discount and expense, all other assets of intangible nature, home furnishings, automobile(s), and any other personal items not readily marketable in the case of an individual; advances or loans to stockholders and officers in the case of a corporation; and advances or loans to partners in the case of a partnership.

~~(6) ((For purposes of this section, a person will be deemed to have custody if said person directly or indirectly holds client funds or securities, has any authority to obtain possession of them, or has the ability to appropriate them. An adviser shall not be deemed to have constructive custody of a client's cash or securities, if such possession is for the sole~~

purpose of immediately forwarding such cash or securities to a third party at the request of the client.

(7)) The director may require that a current appraisal be submitted in order to establish the worth of any asset.

((8)) (7) Every investment adviser that has its principal place of business in a state other than this state shall maintain only such minimum net worth as required by the state in which the investment adviser maintains its principal place of business, provided the investment adviser is licensed in that state and is in compliance with that state's minimum capital requirements.

WSR 08-18-040
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Children's Administration)

[Filed August 28, 2008, 10:26 a.m., effective October 1, 2008]

Effective Date of Rule: October 1, 2008.

Purpose: The new language is essential for children's administration to implement the legislature's intent in SSB 5321 (chapter 220, Laws of 2007). The new language is essential for amending the child protective services (CPS) rules which establish findings for child abuse and neglect. The new language will establish a two-tiered findings system and new record expungement time frames.

Citation of Existing Rules Affected by this Order: Amending WAC 388-15-005 and 388-15-077.

Statutory Authority for Adoption: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW.

Adopted under notice filed as WSR 08-14-141 on July 1, 2008.

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 2, Repealed 0.

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

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

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

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

Date Adopted: August 22, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-15-098 and 02-17-045, filed 7/16/02 and 8/14/02, effective 2/10/03)

WAC 388-15-005 What definitions apply to these rules? The following definitions apply to this chapter.

"**Abuse or neglect**" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child as defined in RCW 26.44.020 and this chapter.

"**Administrative hearing**" means a hearing held before an administrative law judge and conducted according to chapter 34.05 RCW and chapter 388-02 WAC.

"**Administrative law judge (ALJ)**" is an impartial decision-maker who presides at an administrative hearing. The office of administrative hearings, which is a state agency but not part of DSHS, employs the ALJs.

"**Alleged perpetrator**" means the person identified in a CPS referral as being responsible for the alleged child abuse or neglect.

"**Alternative response system**" means a contracted provider in a local community that responds to accepted CPS referrals that are rated low or moderately low risk at the time of intake.

"**Appellant**" means a person who requests an administrative hearing to appeal a CPS finding.

"**Child protection team (CPT)**" means a multidisciplinary group of persons with at least four persons from professions that provide services to abused or neglected children and/or parents of such children. The CPT provides confidential case staffing and consultation to children's administration.

"**Child protective services (CPS)**" means the section of the children's administration responsible for responding to allegations of child abuse or neglect.

"**Children's administration (CA)**" means the cluster of programs within DSHS that is responsible for the provision of child protective, child welfare, foster care licensing, group care licensing, and other services to children and their families.

"**Department**" or "**DSHS**" means the Washington state department of social and health services.

~~"((Divisions of child care and early learning (DCCEL))) Department of early learning (DEL)"~~ means the ~~((division of economic services))~~ Washington state agency responsible for licensing child care homes and child care facilities.

"**Division of children and family services (DCFS)**" means the division of children's administration that provides child protective, child welfare, and support services to children and their families.

"**Division of licensed resources (DLR)**" means the division of children's administration responsible for licensing group care and foster care facilities, and responding to allegations of abuse or neglect in such facilities.

"**Finding**" means the final decision made by a CPS social worker after an investigation regarding alleged child abuse or neglect.

"**Founded**" means the determination following an investigation by CPS that based on available information it is more likely than not that child abuse or neglect did occur.

"**Inconclusive**" means the determination following an investigation by CPS, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur. Beginning October 1, 2008 the department will no longer

make inconclusive findings, but shall retain such findings made prior to that date as provided in these rules.

"Mandated reporter" means a person required to report alleged child abuse or neglect as defined in RCW 26.44.030.

"Preponderance of evidence" means the evidence presented in a hearing indicates more likely than not child abuse or neglect did occur.

"Screened-out report" means a report of alleged child abuse or neglect that the department had determined does not rise to the level of credible report of abuse or neglect and is not referred for investigation.

"Unfounded" means the determination following an investigation by CPS that based on available information it is more likely than not that child abuse or neglect did not occur or there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

AMENDATORY SECTION (Amending WSR 02-15-098 and 02-17-045, filed 7/16/02 and 8/14/02, effective 2/10/03)

WAC 388-15-077 What happens to unfounded CPS findings? (1) ~~((According to RCW 74.15.130 (2)(b), no unfounded, or inconclusive CPS finding of child abuse or neglect may be used to deny employment in a child care facility or to deny a license to care for children))~~ Beginning October 1, 2008 the department will no longer make inconclusive findings, but shall retain and destroy such findings made prior to that date as provided in these rules.

(2) ~~((According to RCW 26.44.020(19) no))~~ An unfounded, screened out or inconclusive allegation of child abuse or neglect may not be disclosed ((as part of a background check)) to a child placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

(3) ~~((According to RCW 26.44.031))~~ At the end of three years from the receipt of a screened-out report that alleged child abuse or neglect, the department must destroy its records relating to that report.

(4) ~~At the end of six years from the date of the ((report, the department must remove the unfounded finding from the department's records unless an additional child abuse and/or neglect report has been received regarding the same perpetrator during those six years))~~ completion of an investigation of a report of child abuse or neglect, the department must destroy records relating to unfounded or inconclusive reports, unless a prior or subsequent founded report has been received regarding the child who is the subject of the report, a sibling or half-sibling of the child, or a parent, guardian, or legal custodian of the child, before records are destroyed.

(5) The department shall retain records relating to founded reports of child abuse and neglect as required by DSHS records retention policies. If dependency is established under chapter 13.34 RCW as to a child who is subject of a report of child abuse or neglect, all records relating to the child or the child's parent, guardian, or legal custodian, including any screened-out, unfounded or inconclusive reports not destroyed prior to the establishment of dependency or received after dependency was established, shall be

retained as required by DSHS records retention policies regarding dependency records.

WSR 08-18-043

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 29, 2008, 9:01 a.m., effective October 1, 2008]

Effective Date of Rule: October 1, 2008.

Purpose: The department is amending WAC 388-470-0055 How do my resources count toward the resource limit for Basic Food? The current rule describes what resources must be counted and which ones are excluded when the department determines if a household is eligible for food stamp benefits. The 2008 Farm Bill, Public Law 110-234, has amended the Food Stamp Act to exclude certain retirement and educational accounts for the food stamp program effective October 1, 2008. The amendments made under this filing exclude these types of resources for households that are not categorically eligible for Basic Food and remain subject to the resource limits for the program.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-470-0055.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Other Authority: Public Law 110-234.

Adopted under notice filed as WSR 08-15-060 on July 14, 2008.

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

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

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

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

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

Date Adopted: August 27, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-05-015, filed 2/7/03, effective 3/1/03)

WAC 388-470-0055 How do my resources count toward the resource limit for Basic Food? (1) For Basic Food, if your assistance unit (AU) is not categorically eligible (CE) ((for Basic Food)) under WAC 388-414-0001, we count the following resources toward your AU's resource limit ((for

~~Basic Food~~) to decide if you are eligible for benefits under WAC 388-470-0005:

(a) Liquid resources. These are resources that are easily changed into cash. Some examples of liquid resources are:

- (i) Cash on hand;
- (ii) Money in checking or savings accounts;
- (iii) Money market accounts or certificates of deposit (CDs) less any withdrawal penalty;

~~(iv) ((Keogh plans that do not involve a contractual agreement with someone outside of the assistance unit, less any withdrawal penalty;~~

~~(v) Individual Retirement Accounts (IRAs) less any withdrawal penalty;~~

~~(vi))~~ Stocks, bonds, annuities, or mutual funds less any early withdrawal penalty;

~~((vii))~~ (v) Available trusts or trust accounts; or

~~((viii))~~ (vi) Lump sum payments. A lump sum payment is money owed to you from a past period of time that you get but do not expect to get on a continuing basis.

(b) Nonliquid resources, personal property, and real property not specifically excluded in subsection (2) below.

(c) Vehicles as described in WAC 388-470-0075.

(d) The resources of a sponsor as described in WAC 388-470-0060.

(2) The following resources do not count toward your resource limit:

(a) Your home and the surrounding property that you, your spouse, or your dependents live in;

(b) A house you do not live in, if you plan on returning to the home and you are out of the home because of:

- (i) Employment;
- (ii) Training for future employment;
- (iii) Illness; or
- (iv) Natural disaster or casualty.

(c) Property that:

(i) You are making a good faith effort to sell;

(ii) You intend to build a home on, if you do not already own a home;

(iii) Produces income consistent with its fair market value, even if used only on a seasonal basis;

(iv) Is essential to the employment or self-employment of a household member. Property excluded under this section and used by a self-employed farmer or fisher retains its exclusion for one year after the household member stops farming or fishing; or

(v) Is essential for the maintenance or use of an income-producing vehicle; or

(vi) Has an equity value equal to or less than half of the resource limit as described in WAC 388-470-0005.

(d) Household goods

(e) Personal effects;

(f) Life insurance policies, including policies with cash surrender value (CSV);

(g) One burial plot per household member;

(h) One funeral agreement per household member, up to fifteen hundred dollars;

(i) Pension plans or retirement funds not specifically counted in subsection (1) above;

(j) Sales contracts, if the contract is producing income consistent with its fair market value;

(k) Government payments issued for the restoration of a home damaged in a disaster;

(l) Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs;

(m) Nonliquid resources that have a lien placed against them;

(n) Earned Income Tax Credits (EITC):

(i) For twelve months, if you were a Basic Food recipient when you got the EITC and you remain on Basic Food for all twelve months; or

(ii) The month you get it and the month after, if you were not getting Basic Food when you got the EITC.

(o) Energy assistance payments or allowances;

(p) The resources of a household member who gets SSI, TANF/SFA, or GA benefits; ~~((and))~~

(q) Retirement funds or accounts that are tax exempt under the Internal Revenue Code;

(r) Education funds or accounts in a tuition program under section 529 or 530 of the Internal Revenue Code; and

(s) Resources specifically excluded by federal law.

(3) If you deposit excluded liquid resources into a bank account with countable liquid resources, we do not count the excluded liquid resources for six months from the date of deposit.

(4) If you sell your home, you have ninety days to reinvest the proceeds from the sale of a home into an exempt resource.

(a) If you do not reinvest within ninety days, we will determine whether there is good cause to allow more time. Some examples of good cause are:

(i) Closing on your new home is taking longer than anticipated;

(ii) You are unable to find a new home that you can afford;

(iii) Someone in your household is receiving emergent medical care; or

(iv) Your children are in school and moving would require them to change schools.

(b) If you have good cause, we will give you more time based on your circumstances.

(c) If you do not have good cause, we count the money you got from the sale as a resource.

WSR 08-18-044

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 29, 2008, 9:04 a.m., effective October 1, 2008]

Effective Date of Rule: October 1, 2008.

Purpose: To extend medicaid benefits to general assistance expedited medicaid (GAX) recipients in the supplemental security income (SSI) post appeal process in order to consistently apply the definition of disabled as referenced in the medicaid state plan.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-448-0180.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.005.

Other Authority: Title 42 C.F.R. § 435.120 and 20 C.F.R. § 416.1455.

Adopted under notice filed as WSR 08-13-046 on June 12, 2008.

Changes Other than Editing from Proposed to Adopted Version: In subsection (2) of the WAC, an editorial change was made to the proposed language, by changing the word "with" to "within" at the end of the sentence.

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

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

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

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

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

Date Adopted: August 21, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-07-140, filed 3/22/04, effective 5/1/04)

WAC 388-448-0180 How do we redetermine your eligibility when we decide you are eligible for general assistance expedited medicaid (GAX)? (1) The maximum period of eligibility for GAX is twelve months before we must review additional medical evidence. If you remain on GAX at the end of the twelve-month period, we determine your eligibility using current medical evidence.

(2) If your application for SSI is denied, and the denial is upheld by an SSI/SSA administrative hearing (~~before the end of the twelve-month incapacity period~~), we change your program eligibility from GAX to ~~((GA and adjust the incapacity review date to be sixty days after the administrative hearing date))~~ GAU if you do not provide proof you have filed an appeal with the SSI/SSA appeals council within sixty days of your hearing decision.

(3) We change your program eligibility from GAX to GAU after the final SSI/SSA determination or if you fail to follow through with any part of the SSI/SSA appeals process.

WSR 08-18-045

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 29, 2008, 9:04 a.m., effective October 1, 2008]

Effective Date of Rule: October 1, 2008.

Purpose: This rule change is needed to allow clients who received diversion cash assistance (DCA) and are enrolled in WorkFirst career services to access support services.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-310-0800.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Adopted under notice filed as WSR 08-14-126 on July 1, 2008.

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 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: August 26, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-10-035, filed 4/27/06, effective 6/1/06)

WAC 388-310-0800 WorkFirst—Support services.

(1) Who can get support services?

People who can get support services include:

(a) WorkFirst participants who receive a TANF cash grant;

(b) Sanctioned WorkFirst participants during the required participation before the sanction is lifted or applicants who were terminated by a sanction review panel who are doing activities required to reopen cash assistance (WAC 388-310-1600);

(c) Unmarried or pregnant minors who are income eligible to receive TANF and are:

(i) Living in a department approved living arrangement (WAC 388-486-0005) and are meeting the school requirements (WAC 388-486-0010); or

(ii) Are actively working with a social worker and need support services to remove the barriers that are preventing them from living in a department approved living arrangement((s)) and/or meeting the school requirements.

(d) Former WorkFirst recipients who are working at least twenty hours or more per week for up to six months after

leaving TANF if they need support services to meet a temporary emergency. This can include up to four weeks of support services if they lose a job and are looking for another one (see also WAC 388-310-1800); ((☞))

(e) Diversion cash assistance (DCA) recipients who are working at least thirty hours or more per week and enrolled in WorkFirst career services if they need support services to meet a temporary emergency;

(f) American Indians who receive a TANF cash grant and have identified specific needs due to location or employment.

(2) Why do I receive support services?

Although not an entitlement, you may receive support services for the following reasons:

(a) To help you participate in work and WorkFirst activities that lead to independence.

(b) To help you to participate in job search, accept a job, keep working, advance in your job, and/or increase your wages.

(c) You can also get help in paying your child care expenses through the working connections child care assis-

tance program. (Chapter ((388-290)) 170-290 WAC describes the rules for this child care assistance program.)

(3) What type of support services may I receive and what limits apply?

There is a limit of three thousand dollars per person per program year (July 1st to June 30th) for WorkFirst support services you may receive. Most types of support services have dollar limits.

The chart below shows the types of support services that are available for the different activities (as indicated by an "x") and the limits that apply.

Definitions:

- Work-related activities include looking for work or participating in workplace activities, such as community jobs or a work experience position.

- Safety-related activities include meeting significant or emergency family safety needs, such as dealing with family violence. When approved, safety-related support services can exceed the dollar or category limits listed below.

- Some support services are available if you need them for other required activities in your IRP.

Type of support service	Limit	• Work	•• Safety	••• Other
Reasonable accommodation for employment	\$1,000 for each request	x		
Clothing/uniforms	\$75 per adult per program year	x		
Diapers	\$50 per child per month	x		
Haircut	\$40 per each request	x		
Lunch	Same rate as established by OFM for state employees	x		
Personal hygiene	\$50 per adult per program year	x		
Professional, trade, association, union and bonds	\$300 for each fee	x		
Relocation related to employment (can include rent, housing, and deposits)	\$1,000 per program year	x		
Short-term lodging and meals in connection with job interviews/tests	Same rate as established by OFM for state employees	x		
Tools/equipment	\$500 per program year	x		
Car repair needed to restore car to operable condition	\$250 per program year	x	x	
License/fees	\$130 per program year	x	x	
Mileage, transportation, and/or public transportation	Same rate as established by OFM for state employees	x	x	
Transportation allotment	Up to: \$25 for immediate need, or \$40 twice a month if you live within 40 miles of your local WorkFirst office, or \$60 twice a month if you live more than 40 miles from your local WorkFirst office.	x	x	
Counseling	No limit	x	x	x
Educational expenses	\$300 for each request if it is an approved activity in your IRP and you do not qualify for sufficient student financial aid to meet the cost	x		x
Medical exams (not covered by Medicaid)	\$150 per exam	x	x	x

Type of support service	Limit	• Work	•• Safety	••• Other
Public transportation	\$150 per month	x	x	x
Testing-diagnostic	\$200 each	x	x	x

(4) What are the other requirements to receive support services?

Other restrictions on receiving support services are determined by the department or its agents. They will decide what support services you receive, as follows:

- (a) It is within available funds; and
- (b) It does not assist, promote, or deter religious activity; and
- (c) There is no other way to meet the cost.

(5) What happens to my support services if I do not participate as required?

The department will give you ten days notice, following the rules in WAC 388-310-1600, then discontinue your support services until you participate as required.

**WSR 08-18-046
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)
[Filed August 29, 2008, 11:15 a.m., effective September 29, 2008]

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

Purpose: The department is adopting new WAC 388-106-0250, 388-106-0255, 388-106-0260, and 388-106-0265 under a new section entitled "roads to community living." These rules describe the project, eligibility, and time-limited nature of demonstration project services under the "money follows the person" grant.

Roads to community living (RCL) is a demonstration project, funded by a five-year "money follows the person" grant authorized under Section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171).

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Other Authority: Deficit Reduction Act of 2005 (P.L. 109-171).

Adopted under notice filed as WSR 08-13-076 on June 16, 2008.

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 4, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 0, Repealed 0.

Date Adopted: August 26, 2008.

Stephanie E. Schiller
Rules Coordinator

NEW SECTION

WAC 388-106-0250 What is the roads to community living (RCL) demonstration project and who is eligible?

(1) Roads to community living (RCL) is a demonstration project, funded by a five-year "money follows the person" grant authorized under section 6071 of the deficit reduction act of 2005 (P.L. 109-171). It is designed to test services and supports which help customers move from institutional settings into the community if they wish to.

(2) To be eligible, the department must assess your needs in CARE and you must:

(a) Have a continuous six months or longer stay in a qualified institutional setting (hospital, nursing home, residential habilitation center);

(b) Be Medicaid eligible for at least thirty days prior to discharge from the institutional setting;

(c) Intend to move to a qualified community setting (home, apartment, licensed residential setting with four or less unrelated individuals); and

(d) Not be able to move into a qualified community setting using available long-term care resources.

(3) When you are discharged to a qualified community setting, you are eligible for continuous Medicaid coverage until your RCL services end.

NEW SECTION

WAC 388-106-0255 How long are RCL services available to me?

Roads to community living (RCL) can be authorized for no longer than three hundred sixty-five days in a qualified community setting. Day one of the demonstration year is the day you move from the institutional setting into the qualified community setting. Day three hundred sixty-five is the last day you can receive demonstration services.

NEW SECTION

WAC 388-106-0260 How do I pay for RCL services?

Depending on your income and resources, you may be required to pay participation toward the cost of your care, as outlined in chapters 388-515 or 388-106 WAC.

NEW SECTION

WAC 388-106-0265 Do I have the right to a fair hearing while receiving RCL services?

Yes, you may request a fair hearing based on the rules outlined in WAC 388-106-1305 to contest eligibility decisions made by the department.

Once your three hundred sixty-five days of roads to community living (RCL) eligibility end, per WAC 388-106-0255, you may not request a fair hearing to contest the conclusion of RCL services or to request an extension.

WSR 08-18-056
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed September 2, 2008, 9:22 a.m., effective November 2, 2008]

Effective Date of Rule: November 2, 2008.

Purpose: The Occupational Safety and Health Administration (OSHA) discovered a few requirements in the department's rule regarding exit routes and employee alarm systems to be less-effective-than the federal rule. This adoption addresses the changes that will make the department's rule at-least-as-effective-as the federal equivalent.

The new language in WAC 296-800-310 will make our rule as-effective-as the federal equivalent.

For example:

- The language will reference the National Fire Protection Association (NFPA) 101-2000, the Life Safety Code.
- The adoption will change the wording to ensure that the ceiling of an exit route remains at six feet eight inches high if projections extend into the space.
- The adoption will add definitions for occupant load, refuge area, and self-lighting or self-luminous.

Citation of Existing Rules Affected by this Order: Amending WAC 296-800-310, 296-800-31010, 296-800-31020, 296-800-31070, and 296-800-370.

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

Adopted under notice filed as WSR 08-13-082 on June 17, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 5, 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 5, Repealed 0.

Date Adopted: September 2, 2008.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-310 Summary. Your responsibility: To provide and maintain emergency exit routes and to install and maintain adequate employee alarm systems.

IMPORTANT:

An employer who demonstrates compliance with the exit route provisions of NFPA 101-2000, the Life Safety Code, will be in compliance with the corresponding requirements of this section.

Exit routes:

You must:

Provide an adequate number of exit routes.

WAC 296-800-31005.

Make sure that exit routes are large enough.

WAC 296-800-31010.

Make sure that exit routes meet their specific design and construction requirements.

WAC 296-800-31015.

Make sure that each exit route leads outside.

WAC 296-800-31020.

Provide unobstructed access to exit routes.

WAC 296-800-31025.

Exit doors must be readily opened from the inside.

WAC 296-800-31030.

Use side-hinged doors to connect rooms to exit routes.

WAC 296-800-31035.

Provide outdoor exit routes that meet requirements.

WAC 296-800-31040.

Minimize danger to employees while they are using emergency exit routes.

WAC 296-800-31045.

Mark exits adequately.

WAC 296-800-31050.

Provide adequate lighting for exit routes and signs.

WAC 296-800-31053.

Maintain the fire retardant properties of paints or other coatings.

WAC 296-800-31055.

Maintain emergency safeguards.

WAC 296-800-31060.

Maintain exit routes during construction and repair.

WAC 296-800-31065.

Provide doors in freezer or refrigerated rooms that open from the inside.

WAC 296-800-31067.

Employee alarm systems:

You must:

Install and maintain an appropriate employee alarm system.

WAC 296-800-31070.

Establish procedures for sounding emergency alarms.

WAC 296-800-31075.

Test the employee alarm system.

WAC 296-800-31080.

Exemption: This rule does not apply to vehicles, vessels, or other mobile structures.

Note: The introduction has important information about building, electrical and fire codes that may apply to you in addition to WISHA rules. See "How do the

WISHA rules relate to building, fire, and electrical codes" in the introduction section of this book.

• In workplaces where employees would not otherwise be able to recognize audible or visible alarms, you can use tactile devices to alert them.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-31010 Make sure that exit routes are large enough. You must:

- Make sure each exit route is large enough to accommodate the maximum-permitted occupant load for each floor served by the route.
- Make sure the capacity of an exit route does not decrease at any point.
- Make sure an exit route is at least 6 feet 8 inches high at all points.
 - Make sure ~~((objects that stick out into the exit route, such as fans hanging from the ceilings or cabinets on walls, do not reduce the minimum height and width of the exit route))~~ projections from the ceiling do not reach a point less than 6 feet 8 inches from the floor.
- Make sure exit routes are at least 28 inches wide at all points between any handrails.
 - If necessary, routes must be wider than 28 inches to accommodate the expected occupant load.
 - Make sure objects that stick out into the exit route, such as cabinets on walls, do not reduce the minimum width of the exit route

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

WAC 296-800-31020 Make sure that each exit route leads outside. You must:

- Make sure that building exit routes lead:
 - Directly outside or to a street, walkway~~((:)),~~ refuge area, or to an open space with access to the outside.
 - To streets, walkways, or open spaces large enough to accommodate all building occupants likely to use the exit.
- Make sure the exit routes clearly show the route employees use to leave the building in an emergency.
- Install a standard safeguard with a warning sign, if a doorway or corner of a building could allow an employee to walk in front of an engine or trolley.
- Use doors, partitions, or other effective means to show employees the correct route out of the building, if the stairs in your exit route lead anywhere but out of the building.

Note: If the stairs in your exit route lead past the exit to the basement, you might install a gate at the point they lead towards that basement. The gate could help your employees stay on the exit route taking them out of the building.

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

WAC 296-800-31070 Install and maintain an appropriate employee alarm system.

Exemptions: • If you have ten or fewer employees in a particular workplace, you can use direct voice communication to sound the alarm, if all employees can hear it. For this kind of workplace, you do not need a back-up system.

You must:

• Make sure that a working employee alarm system with a distinctive signal to warn employees of fire or other emergencies is installed and maintained ~~((, unless employees can see or smell a fire or other hazard))~~.

Exemption: You do not need an alarm system if employees can promptly see or smell a fire or other hazard in time to provide adequate warning to other employees.

• Make sure that the following systems meet the requirements of this rule, if you use them as your employee alarm system:

- Supervisory alarms
- Discharge alarms
- Detection systems required on fixed extinguishing systems
- Detection systems required on fire suppression systems
- Make sure that your employee alarm systems are:
 - Providing enough warning to allow employees to safely escape from the workplace, the immediate work area, or both.
 - Noticeable above surrounding noise or light levels by all employees in the affected portions of the workplace.
 - Distinctive and recognizable as a signal, to evacuate the work area.
 - Restored to working order as soon as possible, after each test or alarm.
 - Supervised, if installed after July 1, 1982, and if it has that capacity.
 - Able to alert assigned personnel whenever a malfunction exists in the system.
 - Adequately warning employees of emergencies.
 - Serviced, maintained, and tested by a person trained in the alarm system's design and functions to keep the system operating reliably and safely.
 - In working order, except when undergoing repairs or maintenance.
 - Warning employees of fire or other emergencies with a distinctive signal, if they are not able to see or smell a fire or other hazard.
 - Manual actuation devices that, if provided, are unobstructed, easy to find, and readily accessible.
 - Using alarm devices, components, combinations of devices, or systems with approved construction and installation. This applies to steam whistles, air horns, strobe lights, or similar lighting devices, as well as tactile devices.
 - Supplied with spare alarm devices available to restore the system promptly if a component breaks, is worn, or destroyed.
 - Kept in full operating condition by maintaining and replacing power supplies as often as necessary.
 - Supplied with a back-up means of alarm, such as employee runners or telephones, when regular systems are out of service.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-370 Definitions.

Abatement Action Plans

Refers to your written plans for correcting a WISHA violation.

Abatement date

The date on the citation when you must comply with specific safety and health standards listed on the citation and notice of assessment or the corrective notice of redetermination.

Acceptable

As used in **Electrical, WAC 296-800-280** means an installation or equipment is acceptable to the director of labor and industries, and approved:

- If it is accepted, or certified, or listed, or labeled, or otherwise determined to be safe by a nationally recognized testing laboratory; or
- With respect to an installation or equipment of a kind which no nationally recognized testing laboratory accepts, certifies, lists, labels, or determines to be safe, if it is inspected or tested by another federal agency, or by a state, municipal, or other local authority responsible for enforcing occupational safety provisions of the National Electrical Code, and found in compliance with the provisions of the National Electrical Code as applied in this section;

OR

- With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use by a particular customer, if it is determined to be safe for its intended use by its manufacturer on the basis of test data which the employer keeps and makes available for inspection to the director and his/her authorized representatives. Refer to federal regulation 29 CFR 1910.7 for definition of nationally recognized testing laboratory.

Accepted

As used in **Electrical, WAC 296-800-280** means an installation is accepted if it has been inspected and found by a nationally recognized testing laboratory to conform to specified plans or to procedures of applicable codes.

Access

As used in material safety data sheets (MSDSs) as Exposure Records, WAC 296-800-180 means the right and opportunity to examine and copy exposure records.

Affected employees

As used in WISHA appeals, penalties and other procedural rules, WAC 296-800-350 means employees exposed to hazards identified as violations in a citation.

Analysis using exposure or medical records

- An analysis using exposure records or medical records can be any collection of data or a statistical study. It can be based on either:
 - Partial or complete information from individual employee exposure or medical records or
 - Information collected from health insurance claim records
- The analysis is not final until it has been:
 - Reported to the employer or
 - Completed by the person responsible for the analysis

ANSI

This is an acronym for the American National Standards Institute.

Approved means:

- Approved by the director of the department of labor and industries or their authorized representative, or by an organization that is specifically named in a rule, such as Underwriters' Laboratories (UL), Mine Safety and Health Administration (MSHA), or the National Institute for Occupational Safety and Health (NIOSH).

- As used in **Electrical, WAC 296-800-280** means acceptable to the authority enforcing this section. The authority enforcing this section is the director of labor and industries. The definition of acceptable indicates what is acceptable to the director and therefore approved.

Assistant director

The assistant director for the WISHA services division at the department of labor and industries or his/her designated representative.

ASTM

This is an acronym for American Society for Testing and Materials.

Attachment plug or plug

As used in the basic electrical rules, WAC 296-800-280 means the attachment at the end of a flexible cord or cable that is part of a piece of electrical equipment. When it is inserted into an outlet or receptacle, it connects the conductors supplying electrical power from the outlet to the flexible cable.

Bare conductor

A conductor that does not have any covering or insulation.

Bathroom

A room maintained within or on the premises of any place of employment, containing toilets that flush for use by employees.

Biological agents

Organisms or their by-products.

Board

As used in WISHA appeals, penalties and other procedural rules, WAC 296-800-350 means the board of industrial insurance appeals.

Ceiling

An exposure limit that must not be exceeded during any part of the employee's workday. The ceiling must be determined over the shortest time period feasible and should not exceed fifteen minutes.

Certification

As used in WISHA appeals, penalties and other procedural rules, WAC 296-800-350 means refers to an employer's written statement describing when and how a citation violation was corrected.

CFR

This is an acronym for Code of Federal Regulations.

Chemical

Any element, chemical compound, or mixture of elements and/or compounds.

Chemical agents (airborne or contact)

A chemical agent is any of the following:

- Airborne chemical agent which is any of the following:

– Dust - solid particles suspended in air, that are created by actions such as:

- Handling.
- Drilling.
- Crushing.
- Grinding.
- Rapid impact.
- Detonation.

• Decrepitation of organic or inorganic materials such as rock, ore, metal, coal, wood, and grain.

– Fume - solid particles suspended in air, that are created by condensation from the gaseous state.

– Gas - a normally formless fluid, such as air, which can be changed to the liquid or solid state by the effect of increased pressure or decreased temperature or both.

– Mist - liquid droplets suspended in air. Mist is created by:

- Condensation from the gaseous to the liquid state;

OR

• Converting a liquid into a dispersed state with actions such as splashing, foaming, spraying or atomizing.

– Vapor - the gaseous form of a substance that is normally in the solid or liquid state.

- Contact chemical agent which is any of the following:

– Corrosive - a substance that, upon contact, causes destruction of living tissue by chemical action, including acids with a pH of 2.5 or below or caustics with a pH of 11.0 or above.

– Irritant - a substance that will induce a local inflammatory reaction upon immediate, prolonged, or repeated contact with normal living tissue.

– Toxicant - a substance that has the inherent capacity to produce personal injury or illness to individuals by absorption through any body surface.

Chemical manufacturer

An employer with a workplace where one or more chemicals are produced for use or distribution.

Chemical name

The scientific designation of a chemical in accordance with one of the following:

- The nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC)
- The Chemical Abstracts Service (CAS) rules of nomenclature
- A name which will clearly identify the chemical for the purpose of conducting a hazard evaluation.

Circuit breaker

• Is a device used to manually open or close a circuit. This device will also open the circuit automatically and without damage to the breaker when a predetermined overcurrent is applied. (600 volts nominal or less)

• Is a switching device capable of making, carrying, and breaking currents under normal circuit conditions, and also making, carrying for a specified time, and breaking currents under specified abnormal circuit conditions, such as those of short circuit. (Over 600 volts nominal)

Citation

Refers to the citation and notice issued to an employer for any violation of WISHA safety and health rules. A cita-

tion and notice may be referred to as a citation and notice of assessment but is more commonly referred to as a citation.

Combustible liquid

A combustible liquid has a flashpoint of at least 100°F (37.8°C) and below 200°F (93.3°C). Mixtures with at least 99% of their components having flashpoints of 200°F (93.3°C) or higher are not considered combustible liquids.

Commercial account

As used in Employer Chemical Hazard Communication, WAC 296-800-170 means an arrangement in which a retail distributor sells hazardous chemical(s) to an employer, generally in large quantities over time, and/or at costs that are below the regular retail price.

Common name

As used in Employer Chemical Hazard Communication, WAC 296-800-170 means any designation or identification such as:

- Code name
- Code number
- Trade name
- Brand name
- Generic name used to identify a chemical other than by its chemical name.

Compressed gas

A gas or mixture of gases that, when in a container, has an absolute pressure exceeding:

- 40 psi at 70°F (21.1°C)

OR

- 104 psi at 130°F (54.4°C) regardless of the pressure at 70°F (21.1°C)

Compressed gas can also mean a liquid with a vapor pressure that exceeds 40 psi at 100°F (37.8°C)

Conductor

A wire that transfers electric power.

Container

As used in Employer Chemical Hazard Communication, WAC 296-800-170 means any container, except for pipes or piping systems, that contains a hazardous chemical. It can be any of the following:

- Bag
- Barrel
- Bottle
- Box
- Can
- Cylinder
- Drum
- Reaction vessel
- Storage tank

Correction date

The date by which a violation must be corrected. Final orders or extensions that give additional time to make corrections establish correction dates. A correction date established by an order of the board of industrial insurance appeals remains in effect during any court appeal unless the court suspends the date.

Corrective notice

Refers to a notice changing a citation and is issued by the department after a citation has been appealed.

Corrosive

A substance that, upon contact, causes destruction of living tissue by chemical action, including acids with a pH of 2.5 or below or caustics with a pH of 11.0 or above.

Covered conductor

A conductor that is covered by something else besides electrical insulation.

Damp location

As used in basic electrical rules, WAC 296-800-280 means partially protected areas that are exposed to moderate moisture. Outdoor examples include roofed open porches and marquees. Interior examples include basements and barns.

Department

Those portions of the department of labor and industries responsible for enforcing the Washington Industrial Safety Act (WISHA).

Designated representative

- Any individual or organization to which an employee gives written authorization.
- A recognized or certified collective bargaining agent without regard to written authorization.
- The legal representative of a deceased or legally incapacitated employee.

Director

The director means the director of the department of labor and industries or their designee.

Distributor

A business, other than a chemical manufacturer or importer, that supplies hazardous chemicals to other distributors or to employers.

Documentation

As used in WISHA appeals, penalties and other procedural rules, WAC 296-800-350 means material that you submit to prove that a correction is completed. Documentation includes, but is not limited to, photographs, receipts for materials and/or labor.

Dry location

As used in basic electrical rules, WAC 296-800-280 means areas not normally subjected to damp or wet conditions. Dry locations may become temporarily damp or wet, such as when constructing a building.

Dust

Solid particles suspended in air that are created by actions such as:

- Handling.
- Drilling.
- Crushing.
- Grinding.
- Rapid impact.
- Detonation.
- Decrepitation of organic or inorganic materials such as rock, ore, metal, coal, wood, and grain.

Emergency washing facilities

Emergency washing facilities are emergency showers, eyewashes, eye/face washes, hand-held drench hoses, or other similar units.

Electrical outlets

Places on an electric circuit where power is supplied to equipment through receptacles, sockets, and outlets for attachment plugs.

Employee

Based on chapter 49.17 RCW, the term employee and other terms of like meaning, unless the context of the provision containing such term indicates otherwise, means an employee of an employer who is employed in the business of his or her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is personal labor for an employer under this standard whether by way of manual labor or otherwise.

Employee exposure record

As used in material safety data sheets (MSDSs) as exposure records, WAC 296-800-180 means a record containing any of the following kinds of information:

- Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained;
- Biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent or which assess an employee's use of alcohol or drugs;
- Material safety data sheets indicating that the material may pose a hazard to human health;

OR

- In the absence of the above, a chemical inventory or any other record which reveals where and when used and the identity (e.g., chemical, common or trade name) of a toxic substance or harmful physical agent.

Employer

Based on chapter 49.17 RCW, an employer is any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: Provided, That any persons, partnership, or business entity not having employees, and who is covered by the Industrial Insurance Act must be considered both an employer and an employee.

Exit

Provides a way of travel out of the workplace.

Exit route

A continuous and unobstructed path of exit travel from any point within a workplace to safety outside.

Explosive

A chemical that causes a sudden, almost instant release of pressure, gas, and heat when exposed to a sudden shock, pressure, or high temperature.

Exposed live parts

Electrical parts that are:

- Not suitably guarded, isolated, or insulated

AND

- Capable of being accidentally touched or approached closer than a safe distance.

Exposed wiring methods

Involve working with electrical wires that are attached to surfaces or behind panels designed to allow access to the wires.

Exposure or exposed

As used in employer chemical hazard communication, WAC 296-800-170 and material safety data sheets (MSDSs) as exposure records, WAC 296-800-180. An employee has been, or may have possibly been, subjected to a hazardous chemical, toxic substance or harmful physical agent while working. An employee could have been exposed to hazardous chemicals, toxic substances, or harmful physical agents in any of the following ways:

- Inhalation
- Ingestion
- Skin contact
- Absorption
- Related means.

The terms exposure and exposed only cover workplace exposure involving a toxic substance or harmful physical agent in the workplace different from typical nonoccupational situations in the way it is:

- Used
- Handled
- Stored
- Generated
- Present

Exposure record

See definition for employee exposure record.

Extension ladder

A portable ladder with 2 or more sections and is not self-supporting. The 2 or more sections travel in guides or brackets that let you change the length. The size of a portable ladder is determined by adding together the length of each section.

Failure-to-abate

Any violation(s) resulting from not complying with an abatement date.

Final order

Any of the following (unless an employer or other party files a timely appeal):

- Citation and notice;
- Corrective notice;
- Decision and order from the board of industrial insurance appeals;
- Denial of petition for review from the board of industrial insurance appeals; or
- Decision from a Washington State superior court, court of appeals, or the state supreme court.

Final order date

The date a final order is issued.

First aid

The extent of treatment you would expect from a person trained in basic first aid, using supplies from a first-aid kit.

Tests, such as X rays, must not be confused with treatment.

Flammable

A chemical covered by one of the following categories:

- Aerosol flammable means an aerosol that, when tested by the method described in 16 CFR 1500.45 yields either a flame projection more than 18 inches at full valve opening or a flashback (a flame extending back to the valve) at any degree of valve opening;

- Gas, flammable means:

- A gas that, at temperature and pressure of the surrounding area, forms a flammable mixture with air at a concentration of 13% by volume or less or

- A gas that, at temperature and pressure of the surrounding area, forms a range of flammable mixtures with air wider than 12% by volume, regardless of the lower limit.

- Liquid, flammable means any liquid having a flashpoint below 100°F (37.8°C), except any mixture having components with flashpoints of 100°F (37.8°C) or higher, the total of which make up 99% or more of the total volume of the mixture.

- Solid, flammable means a solid, other than a blasting agent or explosive as defined in 29 CFR 1910.109(a), that is likely to cause fire through friction, moisture absorption, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily. Solid, inflammable also means that when the substance is ignited, it burns so powerfully and persistently that it creates a serious hazard. A chemical must be considered to be a flammable solid if, when tested by the method described in 16 CFR 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

Flashpoint

- The minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested by any of the following measurement methods:

- Tagliabue closed tester: (See American National Standard Method of Test for Flash Point by Tag Closed Tester, Z11.24-1979 (ASTM D 56-79)) for liquids with a viscosity of less than 45 Saybolt Universal Seconds (SUS) at 100°F (37.8°C), that do not contain suspended solids and do not have a tendency to form a surface film under test; or

- Pensky-Martens closed tester: (See American National Standard Method of Test for Flash Point by Pensky-Martens Closed Tester, Z11.7-1979 (ASTM D 93-79)) for liquids with a viscosity equal to or greater than 45 SUS at 100°F (37.8°C), or that contain suspended solids, or that have a tendency to form a surface film under test; or

- Setaflash closed tester: (See American National Standard Method of Test for Flash Point by Setaflash Closed Tester (ASTM D 3278-78).)

Note: Organic peroxides, which undergo auto accelerating thermal decomposition, are excluded from any of the flashpoint measurement methods specified above.

Flexible cords and cables

Typically used to connect electrical equipment to an outlet or receptacle. These cords can have an attachment plug to connect to a power source or can be permanently wired into the power source. Flexible cords, extension cords, cables and electrical cords are all examples of flexible cord.

Floor hole

An opening in any floor, platform, pavement, or yard that measures at least one inch but less than 12 inches at its smallest dimension and through which materials and tools (but not people) can fall.

Examples of floor holes are:

- Belt holes
- Pipe openings
- Slot openings

Floor opening

An opening in any floor, platform, pavement, or yard that measures at least 12 inches in its smallest dimension and through which a person can fall.

Examples of floor openings are:

- Hatchways
- Stair or ladder openings
- Pits
- Large manholes

The following are NOT considered floor openings:

- Openings occupied by elevators
- Dumbwaiters
- Conveyors
- Machinery
- Containers

Foreseeable emergency

As used in Employer Chemical Hazard Communication, WAC 296-800-170 means any potential event that could result in an uncontrolled release of a hazardous chemical into the workplace. Examples of foreseeable emergencies include equipment failure, rupture of containers, or failure of control equipment.

Fume

Solid particles suspended in air that are created by condensation from the gaseous state.

Gas

A normally formless fluid, such as air, which can be changed to the liquid or solid state by the effect of increased pressure or decreased temperature or both.

Ground

As used in Electrical, WAC 296-800-280, a connection between an electrical circuit or equipment and the earth or other conducting body besides the earth. This connection can be intentional or accidental.

Grounded

A connection has been made between an electrical circuit or equipment and the earth or another conducting body besides the earth.

Grounded conductor

A system or circuit conductor that is intentionally grounded.

Ground-fault circuit-interrupter

A device whose function is to interrupt the electric circuit to the load when a fault current to ground exceeds some predetermined value that is less than that required to operate the overcurrent protective device of the supply circuit.

Grounding conductor

Is used to connect equipment or the grounded circuit of a wiring system to a grounding electrode or electrodes.

Grounding conductor, equipment

A conductor used to connect noncurrent-carrying metal parts of equipment, raceways, and other enclosures to the system grounded conductor and/or the grounding electrode conductor at the service equipment or at the source of a separately derived system.

Guarded

Covered, shielded, fenced, enclosed, or otherwise protected by means of suitable covers, casings, barriers, rails, screens, mats, or platforms to remove the likelihood of being accidentally touched or approached closer than a safe distance.

Hand-held drench hoses

Hand-held drench hoses are single-headed emergency washing devices connected to a flexible hose that can be used to irrigate and flush the face or other body parts.

Handrail

A single bar or pipe supported on brackets from a wall or partition to provide a continuous handhold for persons using a stair.

Harmful physical agent

Any physical stress such as noise, vibration, repetitive motion, heat, cold, ionizing and nonionizing radiation, and hypo- or hyperbaric pressure which:

- Is listed in the latest edition of the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances* (RTECS); or
- Has shown positive evidence of an acute or chronic health hazard in testing conducted by, or known to, the employer;

OR

- Is the subject of a material safety data sheet kept by or known to the employer showing that the material may pose a hazard to human health.

Hazard

Any condition, potential or inherent, which can cause injury, death, or occupational disease.

Hazard warning

As used in Employer Chemical Hazard Communication, WAC 296-800-170 can be a combination of words, pictures, symbols, or combination appearing on a label or other appropriate form of warning which shows the specific physical and health hazard(s), including target organ effects, of the chemical(s) in the container(s).

Note: See definition for physical hazard and health hazard to determine which hazards must be covered.

Hazardous chemical

Any chemical that is a physical or health hazard.

Health hazard

A chemical, mixture, biological agent, or physical agent that may cause health effects in short- or long-term exposed employees. Based on statistically significant evidence from at least one study conducted using established scientific principles. Health hazards include:

- Carcinogens
- Toxic or highly toxic agents
- Reproductive toxins
- Irritants
- Corrosives
- Sensitizers

- Hepatotoxins (liver toxins)
- Nephrotoxins (kidney toxins)
- Neurotoxins (nervous system toxins)
- Substances that act on the hematopoietic system (blood or blood-forming system)
 - Substances that can damage the lungs, skin, eyes, or mucous membranes
 - Hot or cold conditions.

Hospitalization

To be sent to, to go to, or be admitted to, a hospital or an equivalent medical facility and receive medical treatment beyond first-aid treatment, regardless of the length of stay in the hospital or medical facility.

Identity

As used in Employer Chemical Hazard Communication, WAC 296-800-170 means any chemical or common name listed on the material safety data sheet (MSDS) for the specific chemical. Each identity used must allow cross-references among the:

- Required list of hazardous chemicals
- Chemical label
- MSDSs

Imminent danger violation

Any violation(s) resulting from conditions or practices in any place of employment, which are such that a danger exists which could reasonably be expected to cause death or serious physical harm, immediately or before such danger can be eliminated through the enforcement procedures otherwise provided by the Washington Industrial Safety and Health Act.

Importer

The first business within the Customs Territory of the USA that:

- Receives hazardous chemicals produced in other countries

AND

- Supplies them to distributors or employers within the USA

Insulated

A conductor has been completely covered by a material that is recognized as electrical insulation and is thick enough based on:

- The amount of voltage involved

AND

- The type of covering material

Interim waiver

An order granted by the department allowing an employer to vary from WISHA requirements until the department decides to grant a permanent or temporary waiver.

Irritant

A substance that will induce a local inflammatory reaction upon immediate, prolonged, or repeated contact with normal living tissue.

Ladder

Consists of 2 side rails joined at regular intervals by crosspieces called steps, rungs, or cleats. These steps are used to climb up or down.

Listed

Equipment is listed if it:

- Is listed in a publication by a nationally recognized laboratory (such as UL, underwriters laboratory) that inspects the production of that type of equipment,

AND

- States the equipment meets nationally recognized standards or has been tested and found safe to use in a specific manner.

Material safety data sheet (MSDS)

Written, printed, or electronic information (on paper, microfiche, or on-screen) that informs manufacturers, distributors, employers or employees about a hazardous chemical, its hazards, and protective measures as required by material safety data sheet and label preparation, chapter 296-839 WAC.

Medical treatment

Treatment provided by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first-aid treatment even if provided by a physician or registered professional personnel.

Mist

Liquid droplets suspended in air. Mist is created by:

- Condensation from the gaseous to the liquid state;

OR

- Converting a liquid into a dispersed state with actions such as splashing, foaming, spraying or atomizing.

Mixture

As used in Employer Chemical Hazard Communication, WAC 296-800-170, any combination of 2 or more chemicals (if that combination did not result from a chemical reaction).

Movable equipment

As used in WAC 296-800-35052, a hand-held or non-hand-held machine or device;

- That is powered or nonpowered;

AND

- Can be moved within or between worksites

Must

Must means mandatory.

NEMA

These initials stand for National Electrical Manufacturing Association.

NFPA

This is an acronym for National Fire Protection Association.

Nose

The portion of the stair tread that projects over the face of the riser below it.

Occupational Safety and Health Administration (OSHA)

Created in 1970 when the U.S. Congress passed the Occupational Safety and Health Act, the Occupational Safety and Health Administration (OSHA) provides safety on the job for workers. OSHA oversees state plans (such as WISHA in Washington) that have elected to administer the safety and health program for their state. OSHA requires WISHA rules to be at least as effective as OSHA rules.

Office work environment

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.

Open riser

A stair step with an air space between treads has an open riser.

Organic peroxide

This is an organic compound containing the bivalent-0-0-structure. It may be considered a structural derivative of hydrogen peroxide if one or both of the hydrogen atoms has been replaced by an organic radical.

Outlet

See definition for electrical outlets.

Oxidizer

A chemical other than a blasting agent or explosive as defined in WAC 296-52-60130 or CFR 1910.109(a), that starts or promotes combustion in other materials, causing fire either of itself or through the release of oxygen or other gases.

Permissible exposure limits (PELs)

Permissible exposure limits (PELs) are employee exposures to toxic substances or harmful physical agents that must not be exceeded. PELs are specified in applicable WISHA rules.

Person

Based on chapter 49.17 RCW, one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

Personal eyewash units

Personal eyewash units are portable, supplementary units that support plumbed units or self-contained units, or both, by delivering immediate flushing for less than fifteen minutes.

Personal service room

Used for activities not directly connected with a business' production or service function such as:

- First aid
- Medical services
- Dressing
- Showering
- Bathrooms
- Washing
- Eating

Personnel

See the definition for employees.

Physical hazard

As used in Employer Chemical Hazard Communication, WAC 296-800-170 means a chemical that has scientifically valid evidence to show it is one of the following:

- Combustible liquid
- Compressed gas
- Explosive
- Flammable
- Organic peroxide
- Oxidizer
- Pyrophoric

- Unstable (reactive)

- Water reactive

Platform

Platform means an extended step or landing that breaks a continuous run of stairs.

Plug

See definition for attachment plug.

Potable water

Water that you can safely drink. It meets specific safety standards prescribed by the United States Environmental Protection Agency's National Interim Primary Drinking Water Regulations, published in 40 CFR Part 141, and 40 CFR 147.2400.

Predictable and regular basis

Employee functions such as, but not limited to, inspection, service, repair and maintenance which are performed

- at least once every 2 weeks

OR

- 4 man-hours or more during any sequential 4-week period (to calculate man-hours multiply the number of employees by the number of hours during a 4-week period).

Produce

As used in Employer Chemical Hazard Communication, WAC 296-800-170, any one of the following:

- Manufacture
- Process
- Formulate
- Blend
- Extract
- Generate
- Emit
- Repackage

Purchaser

As used in Employer Chemical Hazard Communication, WAC 296-800-170, an employer who buys one or more hazardous chemicals to use in their workplace.

Pyrophoric

A chemical is pyrophoric if it will ignite spontaneously in the air when the temperature is 130°F (54.4°C) or below.

Qualified person

A person who has successfully demonstrated the ability to solve problems relating to the subject matter, work, or project, either by:

- Possession of a recognized degree, certificate, or professional standing;

OR

- Extensive knowledge, training and experience.

Railing or standard railing

A vertical barrier erected along exposed edges of a floor opening, wall opening, ramp, platform, or runway to prevent falls of persons.

Reassume jurisdiction

The department has decided to take back its control over a citation and notice being appealed.

Receptacle or receptacle outlet

As used in basic electrical rules, WAC 296-800-280 means outlets that accept a plug to supply electric power to equipment through a cord or cable.

Record

A record is any item, collection, or grouping of information. Examples include:

- Paper document
- Microfiche
- Microfilm
- X-ray film
- Computer record

Repeat violation

A violation is a repeat violation if the employer has been cited one or more times previously for a substantially similar hazard.

Refuge area

• A protected space along an exit route that is separated from other spaces inside the building by a barrier with at least a one-hour fire resistance rating;

OR

• A floor in a building with an automatic sprinkler system that has at least two spaces that are separated by smoke-resistant partitions. See WAC 296-24-607 for requirements for automatic sprinkler systems.

Responsible party

As used in employer chemical hazard communication, WAC 296-800-170. Someone who can provide appropriate information about the hazardous chemical and emergency procedures.

Rise

The vertical distance from the top of a tread to the top of the next higher tread.

Riser

The vertical part of the step at the back of a tread that rises to the front of the tread above.

Rungs

Rungs are the cross pieces on ladders that are used to climb up and down the ladder.

Runway

An elevated walkway above the surrounding floor or ground level. Examples of runways are footwalks along shafting or walkways between buildings.

Safety factor

The term safety factor means the ratio of when something will break versus the actual working stress or safe load when it is used.

Serious violation

Serious violation must be deemed to exist in a workplace if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in such workplace, unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

Self-lighting or self-luminous

A light source that:

• Is illuminated by a self-contained power source other than batteries;

AND

• Operates independently from external power sources.

Short-term exposure limit (STEL)

An exposure limit, averaged over a short time period (usually measured for 15 minutes) that must not be exceeded during any part of an employee's workday.

Should

Should means recommended.

Single ladder

A type of portable ladder with one section.

It is distinguished by all of the following:

- It has one section
- It cannot support itself
- Its length cannot be adjusted

Smoking

A person is smoking if they are:

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

Specific chemical identity

This term applies to chemical substances. It can mean the:

- Chemical name
- Chemical Abstracts Service (CAS) registry number
- Any other information that reveals the precise chemical designation of the substance.

Stair railing

A vertical barrier attached to a stairway with an open side to prevent falls. The top surface of the stair railing is used as a handrail

Stairs or stairway

A series of steps and landings:

- leading from one level or floor to another,
- leading to platforms, pits, boiler rooms, crossovers, or around machinery, tanks, and other equipment
- Used more or less continuously or routinely by employees, or only occasionally by specific individuals.
- With three or more risers

Standard safeguard

Safety devices that prevent hazards by their attachment to:

- Machinery
- Appliances
- Tools
- Buildings
- Equipment

These safeguards must be constructed of:

- Metal
- Wood
- Other suitable materials

The department makes the final determination about whether a safeguard is sufficient for its use.

Step ladder

A portable ladder with:

- Flat steps
- A hinge at the top allowing the ladder to fold out and support itself
- Its length that cannot be adjusted.

Time weighted average (TWA₈)

An exposure limit, averaged over 8 hours, that must not be exceeded during an employee's work shift.

Toeboard

A barrier at floor level along exposed edges of a floor opening, wall opening, platform, runway, or ramp, to prevent falls of materials.

Toxic chemical

As used in first aid, WAC 296-800-150, is a chemical that produces serious injury or illness when absorbed through any body surface.

Toxic substance

Any chemical substance or biological agent, such as bacteria, virus, and fungus, which is any of the following:

- Listed in the latest edition of the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances* (RTECS)
- Shows positive evidence of an acute or chronic health hazard in testing conducted by, or known to, the employer
- The subject of a material safety data sheet kept by or known to the employer showing the material may pose a hazard to human health.

Toxicant

A substance that has the inherent capacity to produce personal injury or illness to individuals by absorption through any body surface.

Trade secret

Any confidential:

- Formula
- Pattern
- Process
- Device
- Information
- Collection of information

The trade secret is used in an employer's business and gives an opportunity to gain an advantage over competitors who do not know or use it.

See WAC 296-62-053 for requirements dealing with trade secrets.

Tread

As used in stairs and stair railings, WAC 296-800-250 means the horizontal part of the stair step.

Tread run

As used in stairs and stair railings, WAC 296-800-250 means the distance from the front of one stair tread to the front of an adjacent tread.

Tread width

The distance from front to rear of the same tread including the nose, if used.

UL (Underwriters' Laboratories, Inc.)

You will find these initials on electrical cords and equipment. The initials mean the cord or equipment meets the standards set by the Underwriters' Laboratories, Inc.

Unstable (reactive)

As used in employer chemical hazard communication, WAC 296-800-170. An unstable or reactive chemical is one that in its pure state, or as produced or transported, will vigorously polymerize, decompose, condense, or will become self-reactive under conditions of shocks, pressure or temperature.

Use

As used in employer chemical hazard communication, WAC 296-800-170, means to:

- Package
- Handle
- React
- Emit
- Extract
- Generate as a by-product
- Transfer.

Vapor

The gaseous form of a substance that is normally in the solid or liquid state.

Voltage of a circuit

The greatest effective potential difference between any two conductors or between a conductor and ground.

Voltage to ground

The voltage between a conductor and the point or conductor of the grounded circuit. For undergrounded circuits, it is the greatest voltage between the conductor and any other conductor of the circuit.

Voltage, nominal

Nominal voltage is a value assigned to a circuit or system to designate its voltage class (120/240, 480Y/277, 600, etc.). The actual circuit voltage can vary from the value if it is within a range that permits the equipment to continue operating in a satisfactory manner.

WAC

This is an acronym for **Washington Administrative Code**, which are rules developed to address state law.

Water-reactive

As used in Employer Chemical Hazard Communication, WAC 296-800-170, a water-reactive chemical reacts with water to release a gas that is either flammable or presents a health hazard.

Watertight

Constructed so that moisture will not enter the enclosure or container.

Weatherproof

Constructed or protected so that exposure to the weather will not interfere with successful operation. Rainproof, rain-tight, or watertight equipment can fulfill the requirements for weatherproof where varying weather conditions other than wetness, such as snow, ice, dust, or temperature extremes, are not a factor.

Wet location

As used in basic electrical rules, WAC 296-800-280 means:

- Underground installations or in concrete slabs or masonry that are in direct contact with the earth
- Locations that can be saturated by water or other liquids
- Unprotected locations exposed to the weather (like vehicle washing areas)

WISHA

This is an acronym for the Washington Industrial Safety and Health Act.

Work area

As used in employer chemical hazard communication, WAC 296-800-170, a room or defined space in a workplace

where hazardous chemicals are produced or used, and where employees are present.

Working days

Means a calendar day, except Saturdays, Sundays, and legal holidays. Legal holidays include:

- New Year's Day - January 1
- Martin Luther King, Jr. Day
- Presidents' Day
- Memorial Day
- Independence Day - July 4
- Labor Day
- Veterans' Day - November 11
- Thanksgiving Day
- The day after Thanksgiving Day; and
- Christmas Day - December 25

The number of working days must be calculated by not counting the first working day and counting the last working day.

Worker

See the definition for employee.

Workplace

- The term workplace means:
 - Any plant, yard, premises, room, or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control, and includes, but is not limited to, all workplaces covered by industrial insurance under Title 51 RCW, as now or hereafter amended.

- As used in Employer Chemical Hazard Communication, WAC 296-800-170 means an establishment, job site, or project, at one geographical location containing one or more work areas.

You

See definition of employer.

Your representative

Your representative is the person selected to act in your behalf.

Adopted under notice filed as WSR 08-15-113 on July 18, 2008.

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 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: September 2, 2008.

Sandra J. Matheson
Director

AMENDATORY SECTION (Amending WSR 06-03-098, filed 1/17/06, effective 2/17/06)

WAC 415-111-230 Self-directed investment program allocation. This section applies only to members who elect the self-directed investment program pursuant to WAC 415-111-210.

(1) **What is an allocation?** An allocation is a set of instructions identifying your choice of investment program funds and the percentage of your money you want to invest in each fund. The amount you allocate to each fund must be designated as a whole percentage, and the total must equal one-hundred percent.

Example: Martha has elected the self-directed investment program (~~as her investment manager~~) and is contributing \$150 per month. Martha decides to invest in three different funds with the following amounts: \$30 invested in fund #1, \$45 invested in fund #2 and \$75 invested in fund #3. To accomplish this she must establish the following allocation:

Allocation to fund #1	20%
Allocation to fund #2	30%
Allocation to fund #3	50%
Total Allocation	100%

(2) **How do I establish an allocation?** You must establish your allocation by contacting the department's designated recordkeeper. Once established, you may change your allocation according to the provisions in subsection (5) of this section.

(3) **What happens if I do not establish an allocation?** If you do not provide an allocation before the department's designated recordkeeper begins receiving your investment money, or if you provide an allocation but the sum of the allocated portions does not equal one-hundred percent, your investment money will be invested as follows:

WSR 08-18-058

PERMANENT RULES

DEPARTMENT OF

RETIREMENT SYSTEMS

[Filed September 2, 2008, 10:37 a.m., effective October 3, 2008]

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

Purpose: The purpose of this rule-making order is to adopt changes to WAC 415-111-230 Self-directed investment program allocation. The Washington state investment board selected a new fund as the default investment option for members of Plan 3 who elect to self-direct their investments but do not establish an investment allocation. As a result, the department of retirement systems needs to update one rule to reflect this change.

Citation of Existing Rules Affected by this Order: Amending WAC 415-111-230.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: Chapter 41.34 RCW.

(a) If the total of the percentages you have allocated is less than one-hundred percent, the department will determine the percentage that is unallocated, and invest the unallocated percentage in the default fund.

Example: Ralph designates the following allocation: 33% fund #1, 33% fund #2, and 33% fund #3. Since the total allocation equals 99%, the unallocated 1% will be invested in the default fund.

(b) If the total of the percentages you have allocated is greater than one-hundred percent, all of your investment money will be invested in the default fund.

Example: Chris designates the following allocations: 38% into fund #1, 40% into fund #2, 10% into fund #3, and 15% into fund #4. Since the total allocation equals 103%, all of Chris' investment money will be invested in the default fund.

(c) If you do not provide an allocation, your money will be invested as follows:

(i) If you previously participated in the self-directed investment program, your most recent allocation will be used. However, if your allocation includes a fund or funds that are no longer available, the portion of your investment money allocated to the unavailable fund(s) will be invested in the default fund.

(ii) If you do not meet the conditions in (c)(i) of this subsection, all of your investment money will be invested in the default fund.

Example: Lew is a new member and elects the self-directed investment program, but does not establish an allocation. All of Lew's investment money will be invested in the default fund.

Example: Linda becomes reemployed in an eligible position and elects to participate in the self-directed investment program again, but does not provide an allocation.

Linda previously participated in the self-directed investment program and had the following allocation:

- 10% in Fund #1
- 10% in Fund #2
- 30% in Fund #3
- 25% in Fund #4
- 25% in Fund #5

Because she did not establish a new allocation, her previous allocation will be used. However, fund #2 is no longer available, so that portion of her money will be invested in the default fund. A new allocation will be established for Linda as follows:

- 10% in Fund #1
- 10% in Default Fund
- 30% in Fund #3

- 25% in Fund #4
- 25% in Fund #5

(4) **What is the default fund?** The default fund for the self-directed investment program is the ~~((Money Market Fund))~~ Target Date Fund that assumes your current age is 65.

(5) **May I change my allocation?** Once you have established an allocation or been directed into the default fund, you may change your allocation by contacting the department's designated recordkeeper. However, changes must be consistent with any restrictions on trading imposed by the funds involved, and, if necessary to protect the performance results of the investment program funds, the department may:

- (a) Limit the number of times you change allocations;
- (b) Limit the frequency of the changes;
- (c) Limit the manner of making changes; or
- (d) Impose other restrictions.

WSR 08-18-079
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 (Division of Banks)

[Filed September 3, 2008, 8:31 a.m., effective October 6, 2008]

Effective Date of Rule: October 6, 2008.

Purpose: To implement section 30, chapter 285, Laws of 2008, by amending the permissible examination fees and annual assessment charges for Washington state chartered commercial banks, mutual savings banks, and stock savings banks.

Citation of Existing Rules Affected by this Order: Amending WAC 208-544-039 and 208-544-025.

Statutory Authority for Adoption: Chapter 285, Laws of 2008; RCW 30.04.030, [30.04.]070, 43.320.040.

Adopted under notice filed as WSR 08-14-159 on July 2, 2008.

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 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 3, 2008.

Brad Williamson
Director of Banks

AMENDATORY SECTION (Amending WSR 01-06-024, filed 2/27/01, effective 3/30/01)

WAC 208-544-025 Fees paid by interstate banks. (1) Semiannual asset charge. ~~((The))~~ On December 31, 2008, and thereafter, a semiannual asset charge ((established in WAC 208-544-020)) shall be assessed against any ~~((state-chartered))~~ state bank, as defined in 12 U.S.C. sec. 1813(a), that ((operates branches)) is chartered in Washington state and operates branches in Washington and any other state, which shall not exceed the semiannual asset charge established in WAC 208-544-020.

(2) The assets subject to assessment ((under)) for banks chartered by any other state, pursuant to WAC 208-544-020(1) and authorized by a signed cooperative agreement between the state bank supervisors of the home and host states, shall be determined as follows: Divide the number of branches in Washington by the total number of branches in all states including Washington and multiply the result by the asset value reflected in the most recent report of condition.

~~((2))~~ (3) Other fees. All other fees that normally apply to Washington-chartered banks under WAC 208-544-030 and 208-512-045 shall also be paid by banks chartered in other states.

AMENDATORY SECTION (Amending WSR 01-12-003 and 01-20-086, filed 5/23/01 and 10/2/01, effective 7/1/01 and 11/2/01)

WAC 208-544-039 Charges and fees effective ((July 1, 2001)) October 6, 2008. ~~((The division intends to increase the rate of its charges and fees each year for several bienniums. The division intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of charges and fees each fiscal year during the 2001-03 biennium.))~~

(1) Effective ((July 1, 2001)) October 6, 2008, the rate of charges and fees under WAC 208-512-045, 208-544-020 and 208-544-030 shall be as follows:

(a) WAC 208-512-045 (1)(c) and (d) - The fee shall be \$100.00 for the issuance and filing of certificates.

(b) WAC 208-512-045 (1)(e) - The fee shall be 50 cents per page.

(c) WAC 208-512-045(2) - The fee shall be ~~\$(102.43))~~ 111.64 per employee hour expended.

(d) WAC 208-544-020(1) - The rates shall be the following:

If total assets are:		The assessment is:		
Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	500	0	((0.000016022)) <u>0.000017464</u>	0
500	1,000	((8,014)) <u>8,373</u>	((0.000015364)) <u>0.000016746</u>	500
1,000	10,000	((15,693)) <u>17,105</u>	((0.000015134)) <u>0.000016495</u>	1,000

If total assets are:		The assessment is:		
Over	But not Over	This Amount	Plus	Of Excess Over
10,000	—	((151,899)) <u>165,562</u>	.000	10,000

(e) WAC 208-544-020(2) - The rate shall be 0.04005.

(f) WAC 208-544-030(1) - The fee shall be ~~\$(73.95))~~ 80.60 per hour.

(g) WAC 208-544-030(2) - The fee shall be ~~\$(102.43))~~ 111.64 per hour.

(2)((a) On July 1, 2002, the rate of charges and fees under subsection (1)(e), (d), (e), (f), and (g) of this section, as increased in the prior fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.

~~((b) The director may round off a rate increase under this subsection. However, no rate increase may exceed the applicable fiscal growth factor.~~

~~((c) By June 1 of each year the director will make available a chart of the new rates that will take effect on the immediately following July 1.~~

~~((3))~~ (3)) The director may waive any or all of the charges and/or fees imposed under this section, in whole or in part, when he or she determines that both of the following factors are present:

(a) The banking program fund exceeds the projected acceptable minimum fund balance level approved by the office of financial management (OFM); and

(b) That such course of action would be fiscally prudent.

~~((4))~~ (3)(a) If the charges and fees assessed under WAC 208-544-020(1) relating to a semiannual asset charge and WAC 208-544-030(1) relating to the hourly examination fee exceed ninety-five percent of the charges and fees applicable for a two-year period of the comparable federal chartering regulator (CFCR) or its successor then the charges and fees paid in excess of such amount shall be rebated to the institution pursuant to (d) of this subsection unless abated by the director as provided in (e) of this subsection.

(b) For purposes of determining rebate entitlement, the total of semiannual asset charges and examination fees will be determined by adding the monthly average semiannual asset charge and the monthly average examination fee for any twenty-four month period beginning on or after July 1, 2000. The monthly average semiannual asset charge is determined by dividing the semiannual asset charges by six and applying the monthly average to the previous six months. The monthly average examination fee is determined by dividing the examination fee for each examination during the averaging period by the number of months between each such examination and the previous examination as determined by the date of the examinations and applying the monthly average to those months. The CFR charge is determined in the same manner. Under no circumstances will an institution be permitted to calculate a rebate based on a period of time that was included, in whole or in part, in the calculation of another rebate under this section.

(c) The rebate is determined by the difference between the sum of the applicable monthly average state charges and

fees for the twenty-four month period minus ninety-five percent of the sum of the applicable monthly average CFCR charges and fees for the same period, as each are determined in (b) of this subsection.

(d) Entitlement of the rebate will occur only upon petition and satisfactory proof to the director.

(e) Rebate abatement. At the discretion of the director, all or part of the rebate determined under (d) of this subsection may be denied if the director determines that:

(i) The institution required a substantially greater than average amount of supervisory time for reasons other than as a result of economic, legal, regulatory, or other conditions beyond the control of competent management;

(ii) The institution required a substantially greater than average amount of examination time for an institution of its size for reasons other than as a result of economic, legal, regulatory, or other conditions beyond the control of competent management;

(iii) Examinations or investigations were performed by third parties under personal services contracts;

(iv) The banking program fund does not exceed the projected acceptable minimum fund balance level approved by OFM or is insufficient to satisfy the rebates under this subsection and still maintain the operations of the department at a fiscally prudent level;

(v) The institution maintained a composite uniform financial institution rating (CAMELS) of 3, 4 or 5 during any time during the rebate period; or

(vi) Such other factors as the director may deem equitable or relevant.

(f) Institutions may become eligible to receive a rebate after June 30, 2002, for amounts paid on or after July 1, 2000.

WSR 08-18-086

PERMANENT RULES

DEPARTMENT OF

NATURAL RESOURCES

[Filed September 3, 2008, 11:18 a.m., effective October 4, 2008]

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

Purpose: Amend geographic boundary to accurately reflect forest lands removed within Kitsap County from department of natural resources fire protection and assign responsibility for fire protection to the respective Kitsap County Fire Protection District. Boundary changes were negotiated with the associated fire protection districts as specified by RCW 76.04.165(3).

Citation of Existing Rules Affected by this Order: Amending WAC 332-24-710.

Statutory Authority for Adoption: RCW 76.04.165.

Adopted under notice filed as WSR 08-13-036 on June 10, 2008.

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

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

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

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

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

Date Adopted: September 3, 2008.

Victoria Christiansen

Executive Director of

Regulatory Programs

AMENDATORY SECTION (Amending Order 608, filed 1/8/93, effective 2/8/93)

WAC 332-24-710 Forest protection zone—Kitsap County. (1) It is determined that some forest lands within Kitsap County are best protected by fire protection districts. Therefore, the forest lands, situated within the following fire districts, are removed from the department's forest protection zone and become the protection responsibility of the district:

~~((a) Fire Protection District 1. All forest lands, except state and federal owned forest lands within the legal description as follows: Township 25 North, Range 1 East W.M., Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 28, 29, 30; Township 25 North, Range 1 West W.M., Sections 1, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, and N 1/2 28, N 1/2 29, N 1/2 30; Township 25 North, Range 2 West W.M., Sections 25, 26, 27, 34, 35, 36; Township 26 North, Range 1 West W.M., Sections 24, 25, 31, 36; Township 26 North, Range 1 East, Section 31.))~~ (a) Central Kitsap Fire and Rescue Formerly Fire Protection District 1. All forest lands, except state and federal owned forest lands within the legal description as follows: Township 25 North, Range 1 East, W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36; Township 25 North Range 1 West, W.M., Sections 1, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, the N 1/2 of Section 25, the N 1/2 of Section 26, the N 1/2 of Section 27, the N 1/2 of Section 28, the NW 1/4 and the N 1/2 NE 1/4 of Section 29, the N 1/2 of Section 30; Township 25 North, Range 2 West, W.M., Sections 25, 26, 27, 34, 35, 36; Township 26 North Range 1 West, W.M., Sections 25, 36; Township 25 North, Range 2 East, W.M., Sections 19, 30, 31; Township 24 North, Range 2 East, W.M., Sections 6, 7, 18; Township 24 North, Range 1 East, W.M., Sections 1, 2, 3, 8, 10, 11, 12, 17, 20.

(b) Fire Protection District 2. All forest lands except state and federal owned forest lands within the legal description as follows: Township 24 North, Range 2 East W.M., Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15; Township 25 North, Range 2 East W.M., Sections 2, 3, 4, 5, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36; Township 26 North, Range 2 East W.M., Sections 26, 27, 28, 33, 34, 35.

((e) Fire Protection District 4. All forest lands except state, tribal, and federal owned forest lands within the legal description as follows: Township 26 North, Range 2 East W.M., Sections 4, 5, 8, 9, 16, 17, 20, 21, 28, 29, 32.

(d) Fire Protection District 7. All forest lands except state and federal owned forest lands within the legal description as follows: Township 22 North, Range 1 East W.M., Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12; Township 22 North, Range 2 East W.M., Sections 3, 4, 5, 6, 7, 8, 9, 10; Township 23 North, Range 1 East W.M., Sections 1, 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36; Township 23 North, Range 1 West W.M., Sections 2, 3, 10, 11, 12, 13, 14, 22; Township 23 North, Range 2 East W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32, 33, 34; Township 24 North, Range 1 East W.M., Sections 3, 10, 15, 21, 22, 27, 28, 29, 31, 32, 33, 34, 35, 36; Township 24 North, Range 1 West W.M., Sections 29, 31, 32, 33, 34, 35; Township 24 North, Range 2 East W.M., Sections 8, 9, 15, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36.

(e) Fire Protection District 10. All forest lands except state and federal owned forest lands within the legal description as follows: Township 26 North, Range 2 East W.M., Sections 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16; Township 26 North, Range 3 East W.M., Sections 6, 7, 18; Township 27 North, Range 2 East W.M., Sections 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36.

(f) Fire Protection District 12. All forest lands except state and federal owned forest lands within the legal description as follows: Township 24 North, Range 1 East W.M., Sections 4, 5, 6, 7, 8, 16, 17, 20, 21; Township 24 North, Range 1 West W.M., Sections 1, 2, 3; Township 25 North, Range 1 East W.M., Sections 29, 30, 31, 32, 33; Township 25 North, Range 1 West W.M., Sections 25, 26, 27, 34, 35.

(g) Fire Protection District 14. All forest lands except state and federal owned forest lands within the legal description as follows: Township 27 North, Range 2 East W.M., Sections 2, 3, 10, 11; Township 28 North, Range 1 East W.M., Sections 12, 13; Township 28 North, Range 2 East W.M., Sections 7, 15, 16, 17, 18, 19, 20, 21, 22, 26, 27, 34, 35, E 1/2 E 1/2 Sec. 28, E 1/2 E 1/2 Sec. 33.

(h) Fire Protection District 15. All forest lands except state and federal owned forest lands within the legal description as follows: Township 24 North, Range 1 East W.M., Sections 1, 2, 3, 10, 11, 12; Township 24 North, Range 2 East W.M., Sections 6, 7, 18; Township 25 North, Range 1 East W.M., Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36; Township 25 North, Range 2 East W.M., Sections 19, 30, 31.

(i) Fire Protection District 18. All forest lands except state and federal owned forest lands within the legal description as follows: Township 25 North, Range 2 East W.M., Section 6; Township 26 North, Range 1 East W.M., Sections 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36; Township 26 North, Range 2 East W.M., Sections 6, 7, 18, 19, 30, 31; Township 27 North, Range 1 East W.M., Sections 1, 12, 14, 22, 23, 26, 27, 28, 33, 34, 35, 36, and W 1/2 Section 13; Township 27 North, Range 2 East W.M., Sections 5, 6, W 1/2 and NE 1/4

Sec. 31, SE 1/4 SW 1/4 SE 1/4 Sec. 36.) (c) North Kitsap Fire and Rescue Formerly Fire Protection District 4. All forest lands, except state, tribal and federal owned forest land within the legal description as follows: Township 26 North, Range 2 East, W.M., Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 28, 29, 32; Township 26 North, Range 3 East, W.M., Sections 6, 7, 18.

(d) Fire Protection District 7. All forest lands, except state and federal owned forest lands within the legal description as follows: Township 24 North, Range 1 East, W.M., Sections 3, 10, 15, 16, 21, 22, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36; Township 24 North, Range 1 West, W.M., Sections 31, 32, 33, the S 1/2 of Section 29; the S 1/4 of Section 34, the SW 1/4 of Section 35; Township 24 North, Range 2 East, W.M., Sections 8, 9, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35; Township 23 North, Range 2 East, W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32, 33, 34; Township 23 North, Range 1 East, W.M., Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36; Township 22 North, Range 1 East, W.M., Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12; Township 22 North, Range 2 East, W.M., Sections 3, 4, 5, 6, 7, 8, 9, 10; Township 23 North, Range 1 West, W.M., Sections 1, 2, 3, 10, 11, 14, 15, 22, the W 1/2 of Section 12, the W 1/2 of Section 13.

(e) North Kitsap Fire and Rescue Formerly Fire Protection District 10. All forest lands, except state and federal owned lands within the legal description as follows: Township 27 North, Range 2 East, W.M., Sections 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36.

(f) Central Kitsap Fire and Rescue Formerly Fire Protection District 12. All forest lands except state and federal owned forest land within the legal description as follows: Township 25 North, Range 1 West, W.M., Sections 25, 26, 27, 34, 35, 36; Township 25 North, Range 1 East, W.M., Sections 29, 32, 33, the SE 1/4 SE 1/4 of Section 30, the E 1/2 and the E 1/2 SW 1/4 of Section 31; Township 24 North, Range 1 West, W.M., Sections 1, 2, 3; Township 24 North, Range 1 East, W.M., Sections 4, 5, 8, the S 1/2 and the NE 1/4 and the E 1/2 NW 1/4 of Section 6, the N 1/2 and the N 1/2 SE 1/4 and the SE 1/4 SE 1/4 and the E 1/2 NW 1/4 SW 1/4 of Section 7, the SW 1/4 of Section 17, the NW 1/4 and the N 1/2 SW 1/4 and the SW 1/4 SW 1/4 of Section 20.

(g) North Kitsap Fire and Rescue Formerly Fire Protection District 14. All forest lands, except state, tribal and federal owned forest lands within the legal description as follows: Township 28 North, Range 1 East, W.M., Sections 12, 13; Township 28 North, Range 2 East, W.M., Sections 7, 15, 16, 17, 18, 19, 20, 21, 22, 26, 27, 34, 35, the E 1/4 of Section 28, the W 1/2 of Section 29, the W 3/4 of Section 32, the E 1/4 of Section 33; Township 27 North, Range 2 East, W.M., Sections 2, 3, 4, 9, 10, 11.

(h) Fire Protection District 18. All forest lands except state, tribal and federal owned forest lands within the legal description as follows: Township 27 North, Range 2 East, W.M., Sections 5, 6, 8, the S 1/2 and E 1/2 NE 1/4 of Section 31; Township 27 North, Range 1 East, W.M., Sections 1, 12, 14, 22, 23, 26, 27, 28, 33, 34, 35, the W 1/2 of Section 13, the SE 1/4 and the W 1/2 NW 1/4 and the NW 1/4 SW 1/4 and the

SE 1/4 SW 1/4 of Section 36; Township 26 North, Range 2 East, W.M., Sections 6, 7, 18, 19, 30, 31; Township 26 North, Range 1 East, W.M., Sections 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36; Township 25 North, Range 2 East, W.M., Section 6.

(2) Forest lands removed from the forest protection zone will not be assessed under RCW 76.04.610 or 76.04.630.

(3) The transfer of fire protection responsibility is effective January 1, ((1994)) 2006.

WSR 08-18-087

PERMANENT RULES

DEPARTMENT OF

NATURAL RESOURCES

[Filed September 3, 2008, 11:19 a.m., effective October 4, 2008]

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

Purpose: Amend geographic boundary to accurately reflect forest lands removed within Pierce County from department of natural resources fire protection and assign responsibility for fire protection to the respective Pierce County Fire Protection District. Boundary changes were negotiated with the associated fire protection districts as specified by RCW 76.04.165(3).

Citation of Existing Rules Affected by this Order: Amending WAC 332-24-720.

Statutory Authority for Adoption: RCW 76.04.165.

Adopted under notice filed as WSR 08-13-034 on June 10, 2008.

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

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

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

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

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

Date Adopted: September 3, 2008.

Victoria Christiansen
Executive Director of
Regulatory Programs

AMENDATORY SECTION (Amending WSR 97-05-066, filed 2/19/97, effective 1/1/98)

WAC 332-24-720 Forest protection zone—Pierce County. (1) It is determined that some forest lands within Pierce County are best protected by fire protection districts. Therefore, the forest lands, situated in the following fire protection districts, are removed from the department's forest

protection zone and become the protection responsibility of the district:

(a) Fire Protection District 1. All forest lands, except state and federal forest lands within the legal description as follows: Township 20 North, Range 4 East, W.M., Sections 22, 23, 25, 26, 27, 35, 36; Township 20 North, Range 5 East, W.M., Sections 19, 20, 29, 30, 31, 32; Township 19 North, Range 5 East, W.M., Sections 5, 6; Township 19 North, Range 4 East, W.M., Section 1.

(b) Fire Protection District 5. All forest lands, except state and federal forest lands within the legal description as follows: Township 22 North, Range 1 East, W.M., Sections 13, 24, 25, 26, 34, 35, 36; Township 22 North, Range 2 East, W.M., Sections 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33; Township 21 North, Range 1 East, W.M., Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 34, 35, 36; Township 21 North, Range 2 East, W.M., Sections 4, 5, 6, 7, 8, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33; Township 20 North, Range 1 East, W.M., Sections 1, 2, 11, 12, 13; Township 20 North, Range 2 East, W.M., Sections 5, 6, 7, 18.

(c) Fire Protection District 6. All forest lands, except state and federal forest lands within the legal description as follows: Township 18 North, Range 3 East W.M., Sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 23, 24, 45; Township 19 North, Range 3 East W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48, 49, 50, 51, 52, 53; Township 19 North, Range 4 East W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, ((§))19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 35, the N 1/2 SW 1/4 of Section 36, Section 38; Township 20 North, Range 3 East W.M., Sections 11, 13, 14, 23, 24, 25, 26, 27, 31, 34, 35, 36, 39, 41; Township 20 North, Range 4 East W.M., Sections 19, 29, 30, 31, 32.

((b)) (d) Fire Protection District 10. All forest lands, except state and federal forest lands within the legal description as follows: Township 21 North, Range 4 East, W.M., Sections 30, 31; Township 20 North, Range 3 East, W.M., Sections 1, 2, 11, 12, 13; Township 20 North, Range 4 East, W.M., Sections 5, 6, 7, 8.

(e) Fire Protection District 12. All forest lands, except state and federal forest lands within the legal description as follows: Township 20 North, Range 5 East, W.M., Sections 25, 26, 27, 34, 35, 36; Township 20 North, Range 6 East, W.M., Sections 31, 32; Township 19 North, Range 5 East, W.M., Sections 1, 2, 11, 12; Township 19 North, Range 6 East, W.M., Sections 4, 5, 6, 7, 8, 9, 10, 16.

(f) Fire Protection District 13. All forest lands, except state and federal forest lands within the legal description as follows: Township 21 North, Range 3 East, W.M., Sections 16, 17, 20, 21.

(g) Fire Protection District 14. All forest lands, except state and federal forest lands within the legal description as follows: Township 20 North, Range 3 East, W.M., Sections 11, 12, 13, 14, 24; Township 20 North, Range 4 East, W.M., Sections 18, 19, 20, 29, 30.

(h) Fire Protection District 16. All forest lands except state and federal forest lands within the legal description as follows: Township 22 North, Range 1 West, W.M., Sections

13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36; Township 21 North, Range 1 West, W.M., Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36; Township 20 North, Range 1 West, W.M., Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 35, 36; Township 20 North, Range 1 East, W.M., Sections 6, 7, 18, 19; Township 19 North, Range 1 West, W.M., Sections 1, 2; Township 22 North, Range 1 East, W.M., Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32, 33; Township 21 North, Range 1 East, W.M., Sections 5, 6.

(i) Fire Protection District 18. All forest lands, except state and federal forest lands within the legal description as follows: Township 18 North, Range 4 East, W.M., the NE 1/4(;) and the S 1/2 of Section 1, 12; Township 18 North, Range 5 East, W.M., Sections 5, 6, 7, Section 8 west of Orville Road, Section 17 west of Orville Road; Township 19, Range 4 East, W.M., the S 1/2 SE 1/4 of Section 1, Sections 12, 13, 24, the NE 1/4(;) and the E 1/2 NW 1/4(;) and the NE 1/4 NW 1/4(;) and the SE 1/4 of Section 25, Section 26, the SE 1/4 NE 1/4(;) and the E 1/2 SE 1/4 of Section 36, Sections or Claim Numbers 37, 38; Township 19 North, Range 5 East, W.M., the S 1/2 S 1/2 of Section 6, the N 1/2 NE 1/4(;) and the SW 1/4 NE 1/4(;) and the W 1/2 of Section 7, the W 1/2 of Section 18, the W 1/2 SE 1/4 west of Carbon River in Section 19, south of Carbon River in Section 30, Sections 31, 32, Sections or Claim Numbers 37, 38, 40.

((e)) (j) Fire Protection District 21. All forest lands, except state and federal forest lands within the legal description as follows: Township 17 North, Range 3 East, W.M., Sections 1, 2, 11, 12; Township 17 North, Range 4 East, W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15; Township 17 North, Range 5 East, W.M., Sections 4, 5, 6, 7; Township 18 North, Range 3 East, W.M., Sections 13, 14, 23, 24, 25, 26, 27, 34, 35, 36; Township 18 North, Range 4 East, W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; Township 18 North, Range 5, East W.M., Sections 18, 19, 20, 29, 30, 31, 32, 33; Township 19 North, Range 4 East, W.M., Sections 28, 29, 30, 31, 32, 33, 34.

((e)) (k) Fire Protection District 22. All forest lands, except state and federal forest lands within the legal description as follows: Township 20 North, Range 5 East, W.M., the S 1/2 S 1/2 SW 1/4 west of the top of the westerly bluff of the White River Gorge in Section 2, the SW 1/4 NE 1/4(;) and the NW 1/4(;) and the S 1/2 of Section 3, Sections 4, 5, the E 1/2 of Section 7, Sections 8, 9, 10, Section 11 west of the top of the westerly bluff of the White River Gorge, the SW 1/4 SW 1/4 of Section 13, Section 14 west of the top of the westerly bluff of the White River Gorge, Sections 15, 16, 17, the NE 1/4(;) and the N 1/2 SE 1/4(;) and the SE 1/4 SE 1/4 of Section 18, the N 1/2(;) and the SE 1/4 SW 1/4(;) and the SE 1/4 of Section 20, Sections 21, 22, 23, the NW 1/4 NW 1/4(;) and the S 1/2 NW 1/4(;) and the SW 1/4 of Section 24, ((and)) the N 1/2 NE 1/4(;) and the N 1/2 NW 1/4 of Section 29.

((e)) (l) Fire Protection District 24. All forest lands, except state and federal forest lands within the legal description as follows: Township 19 North, Range 5 East, W.M., Sections 3, 4, the NE 1/4(;) and the E 1/2 SW 1/4(;) and the SW 1/4 SW 1/4 north of Rhodes Lake Road(;) and the

SE 1/4 of Section 5, Section 8 north of Rhodes Lake Road, the E 1/2(;) and the NW 1/4 north of Rhodes Lake Road in Section 9, Section 10, the S 1/2 of Section 11, ((North)) the N 1/2 of Section 14.

((f)) (m) Fire Protection District 27. All forest lands, except state and federal forest lands on Anderson Island.

(2) Forest lands removed from the forest protections zone will not be assessed under RCW 76.04.610 or 76.04.630.

(3) The exchange of fire protection responsibility involving Fire Protection District 21 will be effective January 1, 1994.

(4) The exchange of fire protection responsibility involving Fire Protection District 27 will be effective January 1, 1997.

(5) The exchange of fire protection responsibility involving Fire Protection Districts 6, 18, 22, and 24 will be effective January 1, 1998.

(6) The exchange of fire protection responsibility involving Fire Protection Districts 1, 5, 10, 12, 13, 14, and 16 will be effective January 1, 2006.

WSR 08-18-088
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES

[Filed September 3, 2008, 11:19 a.m., effective October 4, 2008]

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

Purpose: Amend geographic boundary to accurately reflect forest lands removed within King County from department of natural resources fire protection and assign responsibility for fire protection to the respective King County Fire Protection District. Repeal WAC 332-24-700 and 332-24-735 and incorporate the current language into WAC 332-24-730. Boundary changes were negotiated with the associated fire protection districts as specified by RCW 76.04.165(3).

Citation of Existing Rules Affected by this Order: Repealing WAC 332-24-700 and 332-24-735; and amending WAC 332-24-730.

Statutory Authority for Adoption: RCW 76.04.165.

Adopted under notice filed as WSR 08-13-035 on June 10, 2008.

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 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 1, Repealed 2; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 3, 2008.

Victoria Christiansen
Executive Director of
Regulatory Programs

AMENDATORY SECTION (Amending WSR 97-05-066, filed 2/19/97, effective 1/1/98)

WAC 332-24-730 Forest protection zone—King County. (1) It is determined that some forest lands within King County are best protected by fire protection districts. Therefore, the forest lands, situated within the following fire protection districts, are removed from the department's forest protection zone and become the protection responsibility of the district:

~~((a) Fire Protection District 10. All forest lands, except King County, state and federal forest lands, within the legal description as follows: Township 23 North, Range 5 East, W.M., the N 1/2 NW 1/4 and the SE 1/4 NW 1/4 of Section 1, the NW 1/4 and the S 1/2 of Sections 2, 3, 10, 11, 12, 13; Township 24 North, Range 5 East, W.M., Sections 13, 14, 23, 24, 25, 26, 27, 34, the NW 1/4 NW 1/4 and the SW 1/4 SW 1/4 of Section 35; Township 23 North, Range 6 East, W.M., E 3/4 of Sections 3, 6, 7, 8, 10, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 36; Township 24 North, Range 6 East, W.M., the S 1/2 NW 1/4 and the N 1/2 SW 1/4 of Section 1, the S 1/2 and the S 1/2 NW 1/4 of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 north of Interstate 90, Section 27 north of Interstate 90, 28, the SE 1/4 and the S 1/2 SW 1/4 and the NE 1/4 SW 1/4 of Section 29, the N 1/2 NE 1/4 and the NE 1/4 NW 1/4 of Section 30, the N 1/4 E 1/2 of Sections 32, 33, 34; Township 25 North, Range 6 East, W.M., Sections 26, 27, 28, 32, 33, 34, the N 1/2 NW 1/4 and the SW 1/4 NW 1/4 of Section 35; Township 26 North, Range 6 East, W.M., Sections 25, 26, 35, 36; Township 23 North, Range 7 East, W.M., Sections 3, 4, 10; Township 24 North, Range 7 East, W.M., Sections 18, 19, the S 1/2 of Sections 29, 30, 32, the W 3/4 of Section 33; Township 25 North, Range 6 East, W.M., Sections 1, 12; Township 25 North, Range 7 East, W.M., that portion of the SW 1/4 west of the Tolt River of Section 1, the W 1/2 SW 1/4 of Sections 3, 4, 5, 6, 7, 8, 9, the W 3/4 and the E 1/2 SE 1/4 of Section 10, the SE 1/4 SW 1/4 and that portion of the E 1/2 west of the Tolt River of Section 11, that portion of the NW 1/4 west of the Tolt River of Section 12, the N 3/4 W 1/2 E 1/2 and the E 1/2 W 1/2 and the SW 1/4 SW 1/4 of Section 14, the W 1/2 and the S 1/2 SE 1/4 of Sections 15, 16, 17, 20, 21, 22, the W 1/4 of Section 23, the SE 1/4 and the NW 1/4 and the NE 1/4 SW 1/4 of Section 26, the N 1/4 and the W 1/4 of Sections 27, 28, 29, 30, 32, 33, that portion west of Griffin Creek of Section 34; Township 26 North, Range 7 East, W.M., the SW 1/4 and the S 1/2 SE 1/4 of Sections 26, 27, 31, 32, 33, the W 1/4 and the N 3/4 E 1/2 W 1/2 of Section 34, the N 1/2 and the E 3/4 N 1/2 S 1/2 of Sections 35, 36.~~

~~(b))~~ (a) Fire Protection District 2. All forest lands, except state and federal lands, within the legal description as follows: Township 23 North, Range 3 East, W.M., Sections

25, 36; Township 23 North, Range 4 East, W.M., Sections 30, 31, 32; Township 22 North, Range 4 East, W.M., Sections 5, 6, 7.

(b) Fire Protection District 4. All forest lands, except state and federal lands, within the legal description as follows: Township 26 North, Range 3 East, W.M., Sections 1, 2, 11, 12, 13, 14; Township 26 North, Range 4 East, W.M., Sections 4, 5, 6, 7, 8, 9, 16, 17, 18.

(c) Fire Protection District 10. All forest lands, except King County, state and federal forest lands, within the legal description as follows: Township 23 North, Range 5 East, W.M., the NE 1/4 and the S 1/2 and the SW 1/4 and the NW 1/4 of Section 1, the NW 1/4 and the S 1/2 of Section 2, Section 3, 10, 11, 12, 13; Township 24 North, Range 5 East, W.M., Sections 13, 14, 23, 24, 25, 26, 27, 34, the NW 1/4 NW 1/4 and the SW 1/4 SW 1/4 of Section 35; Township 23 North, Range 6 East, W.M., E 3/4 of Section 3, Sections 6, 7, 8, 10, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 36; Township 24 North, Range 6 East, W.M., the S 1/2 NW 1/4 and the N 1/2 SW 1/4 of Section 1, the S 1/2 and the S 1/2 NW 1/4 of Section 2, Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, Section 26 north of Interstate 90, Section 27 north of Interstate 90, Section 28, the SE 1/4 and the S 1/2 SW 1/4 and the NE 1/4 SW 1/4 of Section 29, the N 1/2 NE 1/4 and the NE 1/4 NW 1/4 of Section 30, the N 1/4 E 1/2 of Section 32, Sections 33, 34; Township 25 North, Range 6 East, W.M., Sections 26, 27, 28, 32, 33, 34, the N 1/2 NW 1/4 and the SW 1/4 NW 1/4 of Section 35; Township 26 North, Range 6 East, W.M., Sections 25, 26, 35, 36; Township 23 North, Range 7 East, W.M., Sections 2, 3, 4, 10; Township 24 North, Range 7 East, W.M., Sections 18, 19, 20, 21, 28, 29, 30, 32, the W 3/4 of Section 33; Township 25 North, Range 6 East, W.M., Sections 1, 12; Township 25 North, Range 7 East, W.M., that portion of the SW 1/4 west of the Tolt River of Section 1, the W 1/2 SW 1/4 of Section 3, Sections 4, 5, 6, 7, 8, 9, the W 3/4 and the E 1/2 SE 1/4 of Section 10, the SE 1/4 SW 1/4 and that portion of the E 1/2 west of the Tolt River of Section 11, that portion of the NW 1/4 west of the Tolt River of Section 12, the N 3/4 W 1/2 E 1/2 and the E 1/2 W 1/2 and the SW 1/4 SW 1/4 of Section 14, the W 1/2 and the S 1/2 SE 1/4 of Section 15, Sections 16, 17, 20, 21, 22, the W 1/4 of Section 23, the SE 1/4 and the NW 1/4 and the NE 1/4 SW 1/4 of Section 26, the N 1/4 and the W 1/4 of Section 27, Sections 28, 29, 30, 32, 33, that portion west of Griffin Creek of Section 34; Township 26 North, Range 7 East, W.M., the SW 1/4 and the S 1/2 SE 1/4 of Section 26, Sections 27, 31, 32, 33, the W 1/4 and the N 3/4 E 1/2 W 1/2 of Section 34, the N 1/2 and the E 3/4 N 1/2 S 1/2 of Sections 35, Section 36.

(d) Fire Protection District 11. All forest lands, except state and federal lands, within the legal description as follows: Township 24 North, Range 3 East, W.M., Sections 32, 33; Township 23 North, Range 3 East, W.M., Sections 4, 5, 6, 7, 8, 9; Township 23 North, Range 3 East, W.M., Sections 1, 2, 11, 12.

(e) Fire Protection District 13. All forest lands, except state and federal lands, located on Vashon or Maury Island.

(f) Fire Protection District 14. All forest lands, except state and federal lands, within the legal description as fol-

lows: Township 24 North, Range 5 East, W.M., Sections 10, 11, 14, 15, 22, 23.

(g) Fire Protection District 20. All forest lands, except state and federal lands, within the legal description as follows: Township 23 North, Range 4 East, W.M., Sections 1, 11, 12, 13, 14; Township 23 North, Range 5 East, W.M., Sections 6, 7, 18.

(h) Fire Protection District 24. All forest lands, except state and federal lands, within the legal description as follows: Township 22 North, Range 4 East, W.M., Sections 2, 3; Township 23 North, Range 4 East, W.M., Sections 34, 35.

(i) Fire Protection District 25. All forest lands, except state and federal lands, within the legal description as follows: Township 24 North, Range 5 East, W.M., Sections 20, 27, 29, 32, 33, 34; Township 23 North, Range 5 East, W.M., Sections 3, 4, 5, 8, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; Township 23 North, Range 6 East, W.M., Sections 18, 19.

(j) South King Fire and Rescue Formerly Fire Protection District 26. All forest lands except state and federal lands, within the legal description as follows: Township 22 North, Range 4 East, W.M., Sections 5, 8, 9, 16, 17, 20, 21, 28, 29, 32; Township 21 North, Range 4 East, W.M., Section 5.

(k) South King Fire and Rescue Formerly Fire Protection District 39. All forest lands, except state and federal lands, within the legal description as follows: Township 22 North, Range 4 East, W.M., Sections 23, 26, 34, 35; Township 21 North, Range 4 East, W.M., Sections 2, 3, 4, 9, 10, 11, 14, 15, 21, 22, 23, 26, 27, 28, 30, 32, 33, 34, 35; Township 21 North, Range 3 East, W.M., Sections 1, 10, 11, 12, 13, 14, 23, 24, 25.

(l) Fire Protection District 27. All forest lands, except state and federal forest lands, within the legal description as follows: Township 24 North, Range 6 East, W.M., Section 12; Township 24 North, Range 7 East, W.M., Sections 3, 4, the E 1/4 and the N 1/2 NW 1/4 of Section 5, the N 3/4 E 1/2 W 1/2 and the W 1/2 E 1/2 and the NE 1/4 NE 1/4 and the SE 1/4 SE 1/4 of Section 6, the N 1/2 of Section 7, Sections 8, 9, 10, 11, 13, 14, 15, 16, 17, the E 1/2 of Section 18, the NE 1/4 of Section 19, Sections 20, 21, 22, 23, 24, 25, 26, 27, 35; Township 25 North, Range 7 East, W.M., Section 30, the E 3/4 and the N 3/4 W 1/4 of Section 31, the SW 1/4 and the E 1/2 SE 1/4 of Section 32, Sections 33, 34; Township 24 North, Range 8 East, W.M., the W 1/2 NW 1/4 of Section 19.

(m) Fire Protection District 28. All forest lands, except state and federal forest lands within the legal description as follows: Township 19 North, Range 6 East, W.M., Section 1 north of the White River; Township 19 North, Range 7 East, W.M., Section 6 ((NE 1/4, NW 1/4, SW 1/4)) north of the White River((-SE 1/4)); Township 20 North, Range 5 East, W.M., Section 13 east of the White River, and Section 24 east of the White River; Township 20 North, Range 6 East, W.M., Section 1, the E 1/2 of Section 8, Sections 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, Section 19 north of the White River, Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, Section 29 north of the White River, Section 30 north of the White River, Section 32 north of the White River, Section 33 north of the White River, Section 34 north of the White River, Section 35 north of the White River, Section 36 north of the White River, Section or Claim Number 37; Township 20 North, Range 7 East, W.M., Sections 6, 7, 18, 19, 30, 31.

~~((e)) Fire Protection District 27. All forest lands except state and federal forest lands, within the legal description as follows: Township 24 North, Range 6 East, W.M., Section 12; Township 24 North, Range 7 East, W.M., Sections 3, 4, the E 1/4 and the N 1/2 NW 1/4 of Section 5, the N 3/4 E 1/2 W 1/2 and the W 1/2 E 1/2 and the NE 1/4 NE 1/4 and the SE 1/4 SE 1/4 of Section 6, the N 1/2 of Sections 7, 8, 9, 10, 11, 13, 14, 15, the NE 1/4 and the N 1/2 SE 1/4 and the NW 1/4 of Section 16, the E 1/2 NE 1/4 of Sections 17, 18, 19, the NE 1/4 of 22, the N 1/2 of Section 23, the N 1/2 and the N 1/2 SE 1/4 of Section 24; Township 25 North, Range 7 East, W.M., Section 30, the E 3/4 and the N 3/4 W 1/4 of Section 31, the SW 1/4 and the E 1/2 SE 1/4 of Sections 32, 33, 34; Township 24 North, Range 8 East, W.M., the W 1/2 NW 1/4 of Section 19.~~

~~((d))~~ (n) Fire Protection District 34. All forest lands, except state and federal lands, within the legal description as follows: Township 25 North, Range 6 East, W.M., Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 29; Township 25 North, Range 7 East, W.M., Sections 18, 19, 30; Township 25 North, Range 5 East, W.M., Sections 3, 10, 11, 12, 13, 14; Township 26 North, Range 6 East, W.M., Sections 27, 28, 29, 30, 31, 32, 33, 34; Township 26 North, Range 5 East, W.M., Sections 25, 26, 27, 28, 34.

(o) Fire Protection District 36. All forest lands, except state and federal lands, within the legal description as follows: Township 26 North, Range 5 East, W.M., Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24; Township 26 North, Range 6 East, W.M., Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22.

(p) Fire Protection District 37. All forest lands except state and federal lands within the legal description as follows: Township 22 North, Range 5 East, W.M., Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 23, 24, 30, 31, 32, 33; Township 22 North, Range 6 East, W.M., Sections 18, 19, 29, 30, 31; Township 22 North, Range 4 East, W.M., Sections 25, 36.

(q) Fire Protection District 38. All forest lands, except state and federal forest lands, within the legal description as follows: Township 23 North, Range 7 East, W.M., Section 1; Township 24 North, Range 7 East, W.M., Section 36; Township 23 North, Range 8 East, W.M., Sections 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 35; Township 24 North, Range 8 East, W.M., Sections 17, 18, 19, 20, 21, ((south)) the S 3/4 of Section 26, that portion of the SE 1/4 of Section 27 as bounded by 428th Avenue SE on the west and north and section line on the east and south, the N 1/2 and the SW 1/4 of Sections 28, 29, 30, 31, 32, 33, the E 1/2 and the S 3/4 of the W 1/2 of Section((s)) 34, Section 35; Township 23 North, Range 9 East, W.M., Sections 7, 17, 18, 19, 30.

~~((e))~~ (r) Fire Protection District 40. All forest lands, except state and federal lands, within the legal description as follows: Township 23 North, Range 5 East, W.M., Sections 22, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36.

(s) Fire Protection District 43. All forest lands, except state and federal forest lands, within the legal description as follows: Township 22 North, Range 5 East, W.M., Section 12; Township 23 North, Range 5 East, W.M., Section 24; Township 22 North, Range 6 East, W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22,

23, 24, that portion of the SE 1/4 of Section 25 as bounded by 268th Avenue SE on the west, SE 264th Street on the north and section line on the east and south, Sections 27, 28, 29, 30, 31, 32, 33, 34, 35, that portion of the NE 1/4 of Section 36 as bounded by 268th Avenue SE on the west, SE Ravensdale Way on the south, Landsburg Road SE on the west and section line on the north; Township 23 North, Range 6 East, W.M., Sections 19, 29, 30, 31, 32, 33, 34, 35, 36; Township 22 North Range 7 East, W.M., Sections 5, 6, 7, 8, 18, 19, 32.

(t) Fire Protection District 44 portions of which were formerly Fire Protection District 46. All forest lands, except state and federal lands, within the legal description as follows: Township 21 North, Range 5 East, W.M., Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 34, 35, 36; Township 21 North, Range 6 East, W.M., Sections 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33, 34, 35, 36; Township 20 North, Range 6 East, W.M., Sections 2, 3, 4, 5, 6, 7, 8; Township 20 North, Range 5 East, W.M., Sections 1, 2, 11, 12.

(u) Fire Protection District 45. All forest lands within the legal description as follows: Township 25 North, Range 6 East, W.M., Sections 1, 12; Township 26 North, Range 6 East, W.M., Sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, 36; Township 26 North, Range 7 East, W.M., the N 3/4 of the W 1/2 of Section 3, Sections 4, 5, 6, 7, 8, 9, the S 1/2 and the SE 1/4 NW 1/4 and the SW 1/4 NE 1/4 of Section 14, the SW 1/4 and the S 1/2 NW 1/4 and the NW 1/4 NW 1/4 of Section 15, Sections 16, 17, 18, 19, 20, 21, 22, the E 1/2 NE 1/4 and the N 3/4 W 1/2 W 1/2 and all remaining land north of Stossel Creek County Road in Section 23, Sections 28, 29, 30, 31, 32, 33.

(2) Forest lands removed from the protection zone will not be assessed under RCW 76.04.610 or 76.04.630.

(3) The exchange of fire protection responsibility involving Fire Protection District 13 will be effective August 18, 1990.

(4) The exchange of fire protection responsibility involving Fire Protection Districts ((10, 27,)) 38, 43, and 45 will be effective January 1, 1994.

((4)) (5) The exchange of fire protection responsibility involving Fire Protection Districts ((18, 22, and 24)) 2, 4, 10, 11, 14, 20, 24, 25, 27, 28, 31, 34, 36, 37, 40, 41, 42, 44, 46, and South King Fire and Rescue will be effective January 1, ((1998)) 2006.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 332-24-700 Forest protection zone—Vashon and Maury islands.
- WAC 332-24-735 Forest protection zone—King County fire district #45.