

WSR 18-18-000A**PERMANENT RULES**

[Filed September 7, 2018, 3:02 p.m.]

ERRATUM

Due to an inadvertent clerical error the published version of WSR 18-17-031 incorrectly stated that the document was filed on August 7 when it was actually filed on August 6. The corrected form including the correct filing and effective dates are shown below.

WSR 18-17-031**PERMANENT RULES****SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed August 6, 2018, 3:14 p.m., effective September 6, 2018]

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

Purpose: The purpose of this final rule is to update provisions of chapter 392-700 WAC, Dropout reengagement, to meet the requirements of RCW 28A.150.260 (13)(c) and provide clarification for open doors programs.

Citation of Rules Affected by this Order: Amending WAC 392-700-035, 392-700-065, 392-700-137, 392-700-155, and 392-700-175.

Statutory Authority for Adoption: RCW 28A.175.010, 28A.175.115.

Adopted under notice filed as WSR 18-11-128 on May 23, 2018.

Changes Other than Editing from Proposed to Adopted Version: The final rules amend proposed WAC 392-700-137 (1)(b)(i), omitting the phrase "as the student has demonstrated competency aligned to the common core standards." This change does not substantively alter the requirement that students be awarded core academic subject credit for passing a standardized high school equivalency subject matter certificate. Rather, it simply deletes language that was intended to clarify the requirement. The amendment was made because Washington state[d] the intended clarification is best addressed in guidance.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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 1, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

WSR 18-18-004**PERMANENT RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed August 23, 2018, 9:07 a.m., effective September 23, 2018]

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

Purpose: The department is amending WAC 388-78A-2020 Definitions, to remove an erroneous second occurrence of the definition of the term "personal exploitation" that contains a typographical error.

Citation of Rules Affected by this Order: Amending WAC 388-78A-2020.

Statutory Authority for Adoption: Chapter 18.20 RCW.

Adopted under notice filed as WSR 18-11-135 on May 23, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: August 22, 2018.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-08-065, filed 4/2/18, effective 5/3/18)

WAC 388-78A-2020 Definitions. "Abandonment" means action or inaction by a person with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

"Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult, which have the following meanings:

(1) **"Sexual abuse"** means any form of nonconsensual sexual conduct, including, but not limited to, unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse also includes any sexual conduct between a staff per-

son, who is not also a resident or a client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(2) **"Physical abuse"** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.

(3) **"Mental abuse"** means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

(4) **"Personal exploitation"** means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(5) **"Improper use of restraint"** means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that:

(a) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW;

(b) Is not medically authorized; or

(c) Otherwise constitutes abuse under the section.

"Activities of daily living" means the following tasks related to basic personal care: Bathing; toileting; dressing; personal hygiene; mobility; transferring; and eating.

"Administrator" means an assisted living facility administrator who must be in active administrative charge of the assisted living facility as required in this chapter. Unless exempt under RCW 18.88B.041, the administrator must complete long-term care training and home care aide certification.

"Adult day services" means care and services provided to a nonresident individual by the assisted living facility on the assisted living facility premises, for a period of time not to exceed ten continuous hours, and does not involve an overnight stay.

"Ambulatory" means capable of walking or traversing a normal path to safety without the physical assistance of another individual:

(1) **"Nonambulatory"** means unable to walk or traverse a normal path to safety without the physical assistance of another individual;

(2) **"Semiambulatory"** means physically and mentally capable of traversing a normal path to safety with the use of mobility aids, but unable to ascend or descend stairs without the physical assistance of another individual.

"Applicant" means a person, as defined in this section, that has submitted, or is in the process of submitting, an application for an assisted living facility license.

"Assisted living facility" means any home or other institution, however named, that is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also

provide domiciliary care, consistent with this chapter to seven or more residents after July 1, 2000. However, an assisted living facility that is licensed for three to six residents prior to or on July 1, 2000, may maintain its assisted living facility license as long as it is continually licensed as an assisted living facility. "Assisted living facility" may also include persons associated with the assisted living facility to carry out its duties under this chapter. "Assisted living facility" does not include facilities certified as group training homes under RCW 71A.22.040, nor any home, institution, or section that is otherwise licensed and regulated under state law that provides specifically for the licensing and regulation of that home, institution, or section. "Assisted living facility" also does not include independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the U.S. Department of Housing and Urban Development.

"Basic services" means housekeeping services, meals, nutritious snacks, laundry, and activities.

"Bathing fixture" means a bathtub, shower or sit-down shower.

"Bathroom" means a room containing at least one bathing fixture.

"Building code" means the building codes and standards adopted by the Washington state building code council.

"Caregiver" means anyone providing direct personal care to another person including, but not limited to: Cuing, reminding, or supervision of residents, on behalf of an assisted living facility, except volunteers who are directly supervised.

"Construction review services" means the office of construction review services within the Washington state department of health.

"Continuing care contract" means, as stated in RCW 70.38.025, a contract providing a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

"Continuing care retirement community" means, as stated in RCW 70.38.025, an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service.

"Contractor" means an agency or person who contracts with a licensee to provide resident care, services, or equipment.

"Crimes relating to financial exploitation" means the same as "crimes relating to financial exploitation" as defined in RCW 43.43.830 or 43.43.842.

"Department" means the Washington state department of social and health services.

"Dietitian" means an individual certified under chapter 18.138 RCW.

"Direct supervision" means oversight by a person on behalf of the assisted living facility who has met training requirements, demonstrated competency in core areas, or has been fully exempted from the training requirements, is on the premises, and is quickly and easily available to the caregiver.

"Document" means to record, with signature, title, date, and time:

(1) Information about medication administration, medication assistance or disposal, a nursing care procedure, accident, occurrence or change in resident condition that may affect the care or needs of a resident; and

(2) Processes, events, or activities that are required by law, rule, or policy.

"Domiciliary care" means:

(1) Assistance with activities of daily living provided by the assisted living facility either directly or indirectly;

(2) Health support services, if provided directly or indirectly by the assisted living facility; or

(3) Intermittent nursing services, if provided directly or indirectly by the assisted living facility.

"Enforcement remedy" means one or more of the department's responses to an assisted living facility's non-compliance with chapter 18.20 RCW and this chapter, as authorized by RCW 18.20.190.

"Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. Some examples of financial exploitation are given in RCW 74.34-020(6).

"Food service worker" means according to chapter 246-217 WAC, an individual who works (or intends to work) with or without pay in a food service establishment and handles unwrapped or unpackaged food or who may contribute to the transmission of infectious diseases through the nature of the individual's contact with food products or equipment and facilities. This does not include persons who simply assist residents with meals.

"General responsibility for the safety and well-being of the resident" means the provision of any one or more of the following:

(1) Prescribed general low sodium diets;

(2) Prescribed general diabetic diets;

(3) Prescribed mechanical soft foods;

(4) Emergency assistance;

(5) Monitoring of the resident;

(6) Arranging health care appointments with outside health care providers and reminding residents of such appointments as necessary;

(7) Coordinating health care services with outside health care providers consistent with WAC 388-78A-2350;

(8) Assisting the resident to obtain and maintain glasses, hearing aids, dentures, canes, crutches, walkers, wheelchairs, and assistive communication devices;

(9) Observation of the resident for changes in overall functioning;

(10) Blood pressure checks as scheduled;

(11) Responding appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning;

(12) Medication assistance as permitted under RCW 69.41.085 and as described in RCW 69.41.010 and chapter 246-888 WAC.

"Harm" means a physical or mental or emotional injury or damage to a resident including those resulting from neglect or violations of a resident's rights.

"Health support services" means any of the following optional services:

(1) Blood glucose testing;

(2) Puree diets;

(3) Calorie controlled diabetic diets;

(4) Dementia care;

(5) Mental health care;

(6) Developmental disabilities care.

"Independent living unit" means:

(1) Independent senior housing;

(2) Independent living unit in a continuing care retirement community or other similar living environments;

(3) Assisted living facility unit where domiciliary services are not provided; or

(4) Assisted living facility unit where one or more items listed under "general responsibilities" are not provided.

"Independent senior housing" means an independent living unit occupied by an individual or individuals sixty or more years of age.

"Infectious" means capable of causing infection or disease by entrance of organisms into the body, which grow and multiply there, including, but not limited to, bacteria, viruses, protozoans, and fungi.

"Licensee" means a person, as defined in this section, to whom the department issues an assisted living facility license.

"Licensed resident bed capacity" means the resident occupancy level requested by a licensee and approved by the department. All residents receiving domiciliary care or the items or services listed under general responsibility for the safety and well-being of the resident as defined in this section count towards the licensed resident bed capacity. Adult day services clients do not count towards the licensed resident bed capacity.

"Long-term care worker" or **"caregiver"** means the same as "long-term care workers" is defined in RCW 74.39A.009.

"Majority owner" means any person that owns:

(1) More than fifty percent interest;

(2) If no one person owns more than fifty percent interest, the largest interest portion; or

(3) If more than one person owns equal largest interest portions, then all persons owning those equal largest interest portions.

"Manager" means a person, as defined in this section, that provides management services on behalf of a licensee.

"Management agreement" means a written, executed agreement between a licensee and manager regarding the provision of certain services on behalf of the licensee.

"Mandated reporter:"

(1) Is an employee of the department, law enforcement officer, social worker, professional school personnel, individual provider, employee of a facility, operator of a facility, employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency, county coroner or medical examiner, Christian Science practitioner, or health care provider subject to chapter 18.130 RCW; and

(2) For the purpose of the definition of mandated reporter, "facility" means a residence licensed or required to be licensed under chapter 18.20 RCW (assisted living facility), chapter 18.51 RCW (nursing homes), chapter 70.128 RCW (adult family homes), chapter 72.36 RCW (soldiers' homes), chapter 71A.20 RCW (residential habilitation centers), or any other facility licensed by the department.

"Maximum facility capacity" means the maximum number of individuals that the assisted living facility may serve at any one time, as determined by the department.

(1) The maximum facility capacity includes all residents, resident care residents, and adult day services clients.

(2) The maximum facility capacity is equal to the lesser of:

(a) The sum of the number of approved bed spaces for all resident rooms (total number of approved bed spaces), except as specified in subsection (3) of this section;

(b) Twice the seating capacity of the dining area(s) consistent with WAC 388-78A-2300 (1)(h);

(c) The number of residents permitted by calculating the ratios of toilets, sinks, and bathing fixtures to residents consistent with WAC 388-78A-3030;

(d) For assisted living facilities licensed on or before December 31, 1988, the total day room area in square feet divided by ten square feet, consistent with WAC 388-78A-3050; or

(e) For assisted living facilities licensed after December 31, 1988, the total day room area in square feet divided by twenty square feet, consistent with WAC 388-78A-3050.

(3) For the purposes of providing adult day services consistent with WAC 388-78A-2360, one additional adult day services client may be served, beyond the total number of approved bed spaces, for each additional sixty square feet of day room area greater than the area produced by multiplying the total number of approved bed spaces by twenty square feet, provided that:

(a) There is at least one toilet and one hand washing sink accessible to adult day services clients for every eight adult day services clients or fraction thereof;

(b) The total number of residents and adult day services clients does not exceed twice the seating capacity of the dining area(s) consistent with WAC 388-78A-2300 (1)(h); and

(c) The adult day services program area(s) and building do not exceed the occupancy load as determined by the local building official or state fire marshal.

"Medication administration" means the direct application of a prescribed medication whether by injection, inhalation, ingestion, or other means, to the resident's body by an individual legally authorized to do so.

"Medication assistance" means assistance with self-administration of medication rendered by a nonpractitioner to

a resident of an assisted living facility in accordance with chapter 246-888 WAC.

"Medication organizer" means a container with separate compartments for storing oral medications organized in daily doses.

"Medication service" means any service provided either directly or indirectly by an assisted living facility related to medication administration, medication administration provided through nurse delegation, medication assistance, or resident self-administration of medication.

"Neglect" means:

(1) A pattern of conduct or inaction resulting in the failure to provide the goods and services that maintain physical or mental health of a resident, or that fails to avoid or prevent physical or mental harm or pain to a resident; or

(2) An act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the resident's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

"Nonresident individual" means an individual who resides in independent senior housing, independent living units in continuing care retirement communities, other similar living environment, or an unlicensed room located within an assisted living facility. A nonresident individual must not receive from the assisted living facility:

(1) Domiciliary care directly or indirectly; or

(2) Items or services listed in the definition of "general responsibility for the safety and well-being of the resident," except as allowed under WAC 388-78A-2032 or when the person is receiving adult day services.

"Nonpractitioner" means any individual who is not a practitioner as defined in WAC 388-78A-2020 and chapter 69.41 RCW.

"Nurse" means an individual currently licensed under chapter 18.79 RCW as either a:

(1) **Licensed practical nurse (LPN)**; or

(2) **Registered nurse (RN)**.

"Over-the-counter (OTC) medication" means any medication that may be legally purchased without a prescriptive order, including, but not limited to, aspirin, antacids, vitamins, minerals, or herbal preparations.

"Person" means any individual, firm, partnership, corporation, company, association, joint stock association or any other legal or commercial entity.

"Physician" means an individual licensed under chapter 18.57 or 18.71 RCW.

~~(**"Personal exploitation"** means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is consistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.)~~

"Practitioner" includes a licensed physician, osteopathic physician, podiatric physician, pharmacist, licensed practical nurse, registered nurse, advanced registered nurse practitioner, dentist, and physician assistant. Refer to chapter 69.41 RCW for a complete listing of practitioners.

"Prescribed medication" means any medication (legend drug, controlled substance, and over-the-counter) that is prescribed by an authorized practitioner.

"Prescriber" means a health care practitioner authorized by Washington state law to prescribe drugs.

"Problem" means a violation of any WAC or RCW applicable to the operation of an assisted living facility:

(1) **"Recurring problem"** means, for all purposes other than those described in RCW 18.20.400, that the department has cited the assisted living facility for a violation of WAC or RCW and the circumstances of either (a) or (b) of this subsection are present. If the previous violation in (a) or (b) of this subsection was pursuant to WAC or RCW that has changed at the time of the new violation, citation to the equivalent current WAC or RCW section is sufficient. When there is a change in licensee between the first and the second or third citations, the new licensee must accept, and the department will consider, the prior licensee's compliance and enforcement record as part of the new licensee's compliance record at that assisted living facility if any person affiliated with the new licensee was affiliated with the prior licensee at the same assisted living facility. A person is considered affiliated with the licensee if the person is an applicant for the assisted living facility license, or is listed on the license application as a partner, officer, director, or majority owner of the applicant.

(a) The department previously imposed an enforcement remedy for a violation of the same section of WAC or RCW for substantially the same problem following any type of inspection within the preceding thirty-six months.

(b) The department previously cited a violation under the same section of WAC or RCW for substantially the same problem following any type of inspection on two occasions within the preceding thirty-six months.

(2) **"Serious problem"** means that there has been a violation of a WAC or RCW and:

(a) The resident was significantly harmed; or

(b) It is likely that the resident will be significantly harmed or die.

(3) **"Uncorrected problem"** means the department has cited a violation of WAC or RCW following any type of inspection and the violation remains uncorrected at the time the department makes a subsequent inspection for the specific purpose of verifying whether such violation has been corrected. When there is a change in licensee, the new licensee is responsible for correcting any remaining violations that may exist, including complying with any plan of correction in effect immediately prior to the change in licensee.

"Prospective resident" means an individual who seeks admission to a licensed assisted living facility and has completed and signed an application for admission, or the individual's legal representative or designated representative, if any, completed and signed the application on their behalf.

"Reasonable accommodation" or **"reasonably accommodate"** have the meaning given in federal and state antidiscrimination laws and regulations which include, but are not limited to, the following:

(1) Reasonable accommodation means that the assisted living facility must:

(a) Not impose admission criteria that excludes individuals unless the criteria is necessary for the provision of assisted living facility services;

(b) Make reasonable modification to its policies, practices or procedures if the modifications are necessary to accommodate the needs of the resident;

(c) Provide additional aids and services to the resident.

(2) Reasonable accommodations are not required if:

(a) The resident or individual applying for admission presents a significant risk to the health or safety of others that cannot be eliminated by the reasonable accommodation;

(b) The reasonable accommodations would fundamentally alter the nature of the services provided by the assisted living facility; or

(c) The reasonable accommodations would cause an undue burden, meaning a significant financial or administrative burden.

"RCW" means Revised Code of Washington.

"Records" means:

(1) **"Active records"** means the current, relevant documentation regarding residents necessary to provide care and services to residents; or

(2) **"Inactive records"** means historical documentation regarding the provision of care and services to residents that is no longer relevant to the current delivery of services and has been thinned from the active record.

"Resident" means an individual who:

(1) Chooses to reside in an assisted living facility, including an individual receiving respite care;

(2) Is not related by blood or marriage to the operator of the assisted living facility;

(3) Receives basic services; and

(4) Receives one or more of the services listed in the definition of "general responsibility for the safety and well-being of the resident," and may receive domiciliary care or respite care provided directly, or indirectly, by the assisted living facility. Whereas, a nonresident individual may receive services that are permitted under WAC 388-78A-2032.

"Resident's representative" means one of the following:

(1) The legal representative who is the person or persons identified in RCW 7.70.065 and who may act on behalf of the resident pursuant to the scope of their legal authority. The legal representative must not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident.

(2) If there is no legal representative, a person designated voluntarily by a competent resident in writing, to act in the resident's behalf concerning the care and services provided by the assisted living facility and to receive information from the assisted living facility if there is no legal representative. The resident's representative must not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident. The resident's representative under this subsection must not have authority to act on behalf of the resident once the resident is no longer competent. The resident's competence must be determined using the criteria in RCW 11.88.010 (1)(e).

"Respite care" means short-term care for any period in excess of twenty-four continuous hours for a resident to temporarily relieve the family or other caregiver of providing that care.

"Restraint" means any method or device used to prevent or limit free body movement, including, but not limited to:

(1) Confinement, unless agreed to as provided in WAC 388-78A-2370;

(2) **"Chemical restraint"** means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

(3) **"Mechanical restraint"** means any device attached or adjacent to the vulnerable adult's body that they cannot easily remove and restricts freedom of movement or normal access to the vulnerable adult's body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are:

(a) Medically authorized, as required, and;

(b) Used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.

(4) **"Physical restraint"** means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include:

(a) Briefly holding without undue force a vulnerable adult in order to calm or comfort the vulnerable adult; or

(b) Holding a vulnerable adult's hand to safely escort the vulnerable adult from one area to another.

"Room" means a space set apart by floor to ceiling partitions on all sides with all openings provided with doors or windows.

(1) **"Sleeping room"** means a room where a resident is customarily expected to sleep and contains a resident's bed.

(2) **"Resident living room"** means the common space in a resident unit that is not a sleeping room, bathroom, or closet.

"Significant change" means a change in the resident's physical, mental, or psychosocial status that causes either life-threatening conditions or clinical complications.

"Special needs" means a developmental disability, mental illness, or dementia.

"Staff person" means any assisted living facility employee, temporary employee, or contractor, whether employed or retained by the licensee or any management company or volunteer.

"State fire marshal" means the director of fire protection under the direction of the chief of the Washington state patrol.

"Toilet" means a disposal apparatus used for urination and defecation fitted with a seat and flushing device.

"Volunteer" means an individual who interacts with residents without reimbursement.

"Vulnerable adult" includes a person:

(1) Sixty years of age or older who has the functional, mental, or physical inability to care for themselves;

(2) Found incapacitated under chapter 11.88 RCW;

(3) Who has a developmental disability as defined under RCW 71A.10.020;

(4) Admitted to any facility, including any assisted living facility;

(5) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW;

(6) Receiving services from an individual provider; or

(7) For the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, includes a person who is an adult of any age who lacks the functional, mental, or physical ability to care for themselves.

"WAC" means Washington Administrative Code.

"Wellness program" means an educational program provided by the assisted living facility. It is a proactive and preventative approach to assist residents and nonresident individuals in achieving optimal levels of health, social, and emotional functioning. A wellness program does not include medical care or interventions.

"Willful" means the deliberate, or nonaccidental action or inaction by an alleged perpetrator that the alleged perpetrator knows or reasonably should have known could cause a negative outcome, including harm, injury, pain, or anguish.

"WISHA" means the Washington Industrial Safety and Health Act, chapter 49.17 RCW administered by the Washington state department of labor and industries.

WSR 18-18-006

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed August 23, 2018, 10:12 a.m., effective September 23, 2018]

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

Purpose: The department is amending sections in chapter 388-71 WAC to define person-centered care. Updates include person-centered language, equal access to care and services, client choice in activities and staff, and maintaining dignity, respect, and privacy while attending adult day programs.

Citation of Rules Affected by this Order: Amending WAC 388-71-0702, 388-71-0704, 388-71-0710, 388-71-0714, 388-71-0718, 388-71-0720, 388-71-0722, 388-71-0723, 388-71-0724, 388-71-0728, 388-71-0732, 388-71-0736, 388-71-0746, 388-71-0764, 388-71-0766, and 388-71-0770.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 18-11-136 on May 23, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 16, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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Date Adopted: August 22, 2018.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 18-19 issue of the Register.

WSR 18-18-007
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed August 23, 2018, 12:40 p.m., effective September 23, 2018]

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

Purpose: The department is amending sections in chapters 388-400 and 388-447 WAC to comply with changes mandated by ESHB [SHB] 2667 (chapter 48, Laws of 2018). These amendments expand eligibility criteria for a referral to the housing and essential needs program and clarify the eligibility process to support this change.

Citation of Rules Affected by this Order: Amending WAC 388-400-0060, 388-400-0070, 388-447-0001, 388-447-0040, and 388-447-0060.

Statutory Authority for Adoption: RCW 74.04.050, 74.040.055 [74.04.055], 74.04.057, 74.08.090.

Other Authority: ESHB [SHB] 2667 (chapter 48, Laws of 2018).

Adopted under notice filed as WSR 18-13-080 on June 15, 2018.

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 5, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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: August 23, 2018.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-24-040, filed 11/26/13, effective 1/1/14)

WAC 388-400-0060 Who is eligible for aged, blind or disabled (ABD) cash assistance? (1) ~~((Effective November 1, 2011,))~~ The aged, blind, or disabled (ABD) cash assistance program provides a state-funded cash stipend and a referral to the housing and essential needs (HEN) program under WAC 388-400-0065 to eligible low-income individuals.

~~((2))~~ (2) You are eligible for ((aged, blind, or disabled (ABD) cash benefits)) ABD if you:

(a) Are:
(i) At least sixty-five years old;
(ii) Blind as defined by the Social Security Administration (SSA); or
(iii) Likely to be disabled as defined in WAC 388-449-0001 through 388-449-0100; and

(b) Are at least eighteen years old or, if under eighteen, a member of a married couple;

(c) Are in financial need according to ABD cash income and resource rules in chapters 388-450, 388-470 and 388-488 WAC. We determine who is in your assistance unit according to WAC 388-408-0060;

(d) Have countable income, as defined in WAC 388-450-0162, at or below the monthly income limits defined in WAC 388-478-0090;

(e) Meet the citizenship/alien status requirements under WAC 388-424-0015;

(f) Provide a Social Security number as required under WAC 388-476-0005;

(g) Reside in the state of Washington as required under WAC 388-468-0005;

(h) Sign an interim assistance reimbursement authorization agreeing to repay the monetary value of general assistance, disability lifeline, or aged blind or disabled benefits subsequently duplicated by supplemental security income benefits as described under WAC 388-449-0200, 388-449-0210 and 388-474-0020;

(i) Report changes of circumstances as required under WAC 388-418-0005; and

(j) Complete a mid-certification review and provide proof of any changes as required under WAC 388-418-0011.

~~((2))~~ (3) You aren't eligible for ((aged, blind, or disabled cash benefits)) ABD if you:

(a) Are eligible for temporary assistance for needy families (TANF) benefits;

(b) Are eligible for state family assistance (SFA) benefits;

(c) Refuse or fail to meet a TANF or SFA eligibility rule;
(d) Refuse or fail to pursue federal aid assistance, including but not limited to medicaid, without good cause;

(e) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-449-0220 without good cause;

(f) Refuse or fail to follow through with the SSI application as required in WAC 388-449-0200 without good cause;

(g) Refuse or fail to participate in vocational rehabilitation services as required in WAC 388-449-0225 without good cause;

(h) Are eligible for supplemental security income (SSI) benefits;

(i) Are an ineligible spouse of an SSI recipient; or

(j) Failed to follow a Social Security Administration (SSA) program rule or application requirement and SSA denied or terminated your benefits.

~~((3))~~ (4) If you reside in a public institution and meet all other requirements, your eligibility for ABD ~~((cash))~~ depends on the type of institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.

(a) You may be eligible for ABD ~~((cash))~~ if you are:

- (i) A patient in a public medical institution; or
- (ii) A patient in a public mental institution and:
 - (A) Sixty-five years of age or older; or
 - (B) Twenty years of age or younger.

~~((4))~~ (5) You aren't eligible for ABD ~~((cash))~~ when you are in the custody of or confined in a public institution such as a state penitentiary or county jail including placement:

- (a) In a work release program; or
- (b) Outside of the institution including home detention.

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

WAC 388-400-0070 Who is eligible for referral to the housing and essential needs (HEN) program? (1) You are eligible for referral to the housing and essential needs (HEN) program if you:

(a) Apply for cash assistance as detailed in WAC 388-406-0010;

(b) Complete an interview with the department;

(c) Are incapacitated as defined in WAC 388-447-0001 through 388-447-0100;

(d) Are at least eighteen years old or, if under eighteen, legally emancipated or a member of a married couple;

(e) Are in financial need according to income rules in chapter 388-450 WAC and resource requirements in RCW 74.04.005 and chapter 388-470 WAC. We determine who is in your assistance unit according to WAC 388-408-0070;

(f) Have countable income, as defined in WAC 388-450-0162, at or below the monthly income limits defined in WAC 388-478-0090;

(g) Meet the citizenship/alien status requirement for ABD cash assistance under WAC 388-424-0015;

(h) Meet the Social Security number verification requirement for cash assistance under WAC 388-476-0005;

(i) Meet the residency requirement for cash assistance under WAC 388-468-0005;

(j) Meet verification requirements for cash assistance detailed in WAC 388-490-0005.

(k) To remain eligible for HEN referral, you must also:

(i) Report changes in your circumstances as required for cash assistance under WAC 388-418-0007; and

(ii) Complete and return eligibility reviews we send you under WAC 388-434-0005.

(2) You are not eligible for referral to the HEN program if you:

(a) ~~((Are eligible for the aged, blind, or disabled (ABD) cash assistance program;~~

~~((b)))~~ Are eligible for the pregnant women assistance (PWA) program;

~~((e)))~~ (b) Are eligible for temporary assistance for needy families (TANF) program;

~~((f)))~~ (c) Refuse or fail to meet a TANF rule without good cause;

~~((g)))~~ (d) Refuse or fail to cooperate in obtaining federal aid assistance, including but not limited to medicaid, without good cause;

~~((h)))~~ (e) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-447-0120;

~~((i)))~~ (f) Are eligible for supplemental security income (SSI) benefits and receiving a state supplemental payment (SSP) under WAC 388-474-0012;

~~((j)))~~ (g) Are an ineligible spouse of an SSI recipient;

~~((k)))~~ (h) Refuse or fail to follow a Social Security Administration (SSA) program rule or application requirement without good cause and SSA denied or terminated your benefits;

~~((l)))~~ (i) Are terminated from ABD for refusing or failing to sign an interim assistance reimbursement authorization agreement under WAC 388-400-0060; ~~((m))~~

~~((n)))~~ (j) Are fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony as described in WAC 388-442-0010~~((o)); or~~

~~((p)))~~ (k) Are disqualified from receiving cash assistance due to a conviction related to unlawful practices in obtaining cash assistance as described in WAC 388-446-0005.

(3) If you reside in a public institution and meet all other requirements, your eligibility for referral to the HEN program depends on the type of institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.

(a) You may be eligible for referral to the HEN program if you are:

(i) A patient in a public medical institution; or

(ii) A patient in a public mental institution and are sixty-five years of age or older.

(b) You aren't eligible for referral to the HEN program if you are in the custody of or confined in a public institution such as a state penitentiary or county jail, including placement:

(i) In a work release program; or

(ii) Outside of the institution including home detention.

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

WAC 388-447-0001 What are the incapacity requirements for referral to the housing and essential needs (HEN) program? (1) For the purposes of this chapter, the following definitions apply:

(a) "We" and "us" mean the department of social and health services.

(b) "You" means the applicant or recipient.

(c) "Incapacitated" means you cannot be gainfully employed due to a physical or mental impairment that is expected to continue for at least ninety days from the date you apply.

(d) "Mental impairment" means a diagnosable mental disorder.

(e) "Physical impairment" means a diagnosable physical illness.

(2) You must be incapacitated in order to receive a HEN referral.

(3) We determine if you are incapacitated when:

(a) You apply for a referral to the HEN program;

(b) You become gainfully employed;

(c) You obtain work skills by completing a training program;

(d) We receive new information that indicates you may be able to work; or

(e) Your incapacity authorization period ends.

(4) We deny your HEN referral if you are gainfully employed at the time of application for referral to the HEN program. "Gainfully employed" means you are performing, in a regular predictable manner, an activity usually done for pay or profit and earning more than the substantial gainful activity standard defined by the Social Security Administration (SSA).

(5) We do not consider you to be gainfully employed if you are working:

(a) Under special conditions that go beyond providing reasonable accommodation; or

(b) Occasionally or part-time because your impairment limits the hours you are able to work compared to unimpaired workers in the same job.

(6) We determine you are incapacitated if you are:

(a) Eligible for the aged, blind, or disabled (ABD) cash assistance program:

(b) Approved through the progressive evaluation process (PEP). The PEP is a sequence of eight steps described in WAC 388-447-0030 through 388-447-0100;

~~((b))~~ (c) Eligible for services from the Developmental Disabilities Administration (DDA);

~~((c))~~ (d) Diagnosed as having an intellectual disability based on a full scale score of seventy or lower on the Wechsler adult intelligence scale (WAIS);

~~((d))~~ (e) Eligible for long-term care services from Aging and Long-term Support Administration (AL TSA);

~~((e))~~ (f) Released from a medical institution where you received services from AL TSA within the past 90 days; or

~~((f))~~ (g) Released from inpatient treatment for a mental impairment within the past 90 days if:

(i) The release from inpatient treatment was not against medical advice; and

(ii) You were discharged into outpatient mental health treatment.

(7) If you have a physical or mental impairment~~(s)~~ or are impaired ~~((by alcohol or drug addiction))~~ due to a substance use disorder, and do not meet the other incapacity criteria in section 6 ~~((b))~~ (c) through ~~((f))~~ (g), we decide if you are incapacitated by applying the PEP. ~~((We do not consider symptoms related to substance use or a diagnosis of chemical dependency when determining incapacity when we have evidence substance use is material to your impairment(s).))~~

~~(8) ((We consider substance use material to your impairment(s) if you are disabled primarily because of drug or alcohol addiction.~~

~~(9) If your impairment will persist at least sixty days after you stop using drugs or alcohol, we do not consider substance use to be material to your impairment(s).~~

~~(10))~~ In determining incapacity, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: Sitting, standing, walking, lifting, carrying, handling; and other physical functions (including manipulative or postural functions such as pushing, pulling, reaching, handling, stooping, or crouching), seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervisors and co-workers, tolerating the pressures of a work setting, maintaining appropriate behavior, using judgment, and adapting to changes in a routine work setting.

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

WAC 388-447-0040 Progressive evaluation process step II—How does the department determine the severity of mental impairments? If you are diagnosed with a mental impairment by a professional described in WAC 388-447-0005, we use information from the medical evidence provider to determine how the impairment limits work-related activities.

(1) We review the following psychological evidence to determine the severity of your mental impairment:

(a) Psychosocial and treatment history records;

(b) Clinical findings of specific abnormalities of behavior, mood, thought, orientation, or perception;

(c) Results of psychological tests; and

(d) Symptoms observed by the examining professional that show how your impairment affects your ability to perform basic work-related activities.

~~(2) ((We do not consider diagnoses or symptoms of alcohol or substance use or dependency when the only impairment supported by objective medical evidence is drug or alcohol addiction.~~

~~(3))~~ (3) If you are diagnosed with an intellectual disability, the diagnosis must be based on the Wechsler adult intelligence scale (WAIS). The following test results determine the severity rating:

Intelligence Quotient (IQ) Score	Severity Rating
85 or above	1
71 to 84	3
70 or lower	5

~~((4))~~ (3) If you are diagnosed with a mental impairment with physical causes, we assign a severity rating based on the most severe of the following four areas of impairment:

(a) Short term memory impairment;

(b) Perceptual or thinking disturbances;

(c) Disorientation to time and place; or

(d) Labile, shallow, or coarse affect.

~~((5))~~ (4) We base the severity of an impairment diagnosed as a mood, anxiety, thought, memory, personality, or cognitive disorder on a clinical assessment of the intensity and frequency of symptoms that:

(a) Affect your ability to perform basic work-related activities; and

(b) Are consistent with a diagnosis of a mental impairment as listed in the most recent version of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM).

~~((6))~~ (5) We base the severity rating for a functional mental impairment on accumulated severity ratings for the symptoms in subsection (5) of this section as follows:

Condition	Severity Rating
(a) The clinical findings and objective evidence are consistent with a significant limitation on performing one or more basic work activities.	Moderate (3)
(b) You are diagnosed with a functional disorder with psychotic features;	Marked (4)
(c) You have had two or more hospitalizations for psychiatric reasons in the past two years;	
(d) You have had more than six months of continuous psychiatric inpatient or residential treatment in the past two years;	
(e) The clinical findings and objective evidence are consistent with very significant limitations on ability to perform one or more basic work activities.	Severe (5)
(f) The clinical findings and objective evidence are consistent with an inability to perform one or more basic work activities.	

~~((7))~~ (6) If you are diagnosed with any combination of mental retardation, mental impairment with physical causes, or functional mental impairment, we assign a severity rating as follows:

Condition	Severity Rating
(a) Two or more disorders with moderate severity (3) ratings; or	Marked (4)
(b) One or more disorders rated moderate severity (3), and one rated marked severity (4).	

Condition	Severity Rating
(c) Two or more disorders rated marked severity (4).	Severe (5)

~~((8))~~ (7) We deny incapacity when you haven't been diagnosed with a significant physical impairment and the overall severity of your mental impairment is one or two;

~~((9))~~ (8) We approve incapacity when your overall mental severity rating is severe (5).

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

WAC 388-447-0060 Progressive evaluation process step IV—How does the department determine the severity of multiple impairments? (1) If you have more than one impairment, we determine the overall severity rating by deciding if your impairments have a combined effect on your ability to be gainfully employed.

(2) When you have two or more diagnosed impairments that limit work activities, we assign an overall severity rating as follows:

Condition	Severity Rating
(a) All impairments are mild and there is no cumulative effect on basic work activities.	Mild 2
(b) All impairments are mild and there is a significant cumulative effect on one or more basic work activities.	Moderate 3
(c) Two or more impairments are of moderate severity and there is a very significant cumulative effect on basic work activities.	Marked 4
(d) Two or more impairments are of marked severity.	Severe 5

(3) We deny incapacity at this step when ~~((a))~~ the overall severity rating is two ~~((b))~~ or ~~WAC 388-447-0001 and your overall severity rating is two when symptoms related to substance use or a diagnosis of chemical dependency are not considered~~.

(4) We approve incapacity at this step when the overall severity rating is five.

**WSR 18-18-012
PERMANENT RULES
HEALTH CARE AUTHORITY**

[Filed August 23, 2018, 4:43 p.m., effective September 23, 2018]

Effective Date of Rule: Thirty-one days after filing.
Purpose: The agency is repealing chapters 182-22, 182-23, 182-24 and 182-25 WAC, as the programs no longer exist.

Citation of Rules Affected by this Order: Repealing chapters 182-22, 182-23, 182-24, and 182-25 WAC.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-13-049 on June 12, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 28.

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 28.

Date Adopted: August 23, 2018.

Wendy Barcus
Rules Coordinator

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 182-22-100 Authority.
- WAC 182-22-110 Definitions.
- WAC 182-22-210 Employer groups.
- WAC 182-22-220 Home care agencies.
- WAC 182-22-230 Financial sponsors.
- WAC 182-22-310 Where to find instructions for filing an appeal.
- WAC 182-22-320 How to appeal health care authority (HCA) decisions.
- WAC 182-22-330 How to appeal a managed health care system (MHCS) decision nonsubsidized enrollees.
- WAC 182-22-340 How to appeal a managed health care system (MHCS) decision—Subsidized enrollees and federal Health Coverage Tax Credit enrollees.
- WAC 182-22-410 Producers.
- WAC 182-22-420 Application processing.
- WAC 182-22-430 Open enrollment.
- WAC 182-22-450 MHCS duties.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 182-23-010 Definitions.
- WAC 182-23-020 Eligibility.
- WAC 182-23-040 Washington health benefits.
- WAC 182-23-050 Premiums and cost sharing.
- WAC 182-23-060 Enrollment in the plan.
- WAC 182-23-070 Disenrollment from WHP.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 182-24-010 Definitions.
- WAC 182-24-020 Eligibility.
- WAC 182-24-025 How is income calculated?
- WAC 182-24-030 Failure to report correct income.
- WAC 182-24-040 BHP benefits.
- WAC 182-24-050 Premiums and copayments.
- WAC 182-24-060 Enrollment in the plan.
- WAC 182-24-070 Disenrollment from BHP.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 182-25-120 Basic health plan coverage for health coverage tax credit eligible enrollees.

WSR 18-18-013

PERMANENT RULES

STATE INVESTMENT BOARD

[Filed August 24, 2018, 8:59 a.m., effective September 24, 2018]

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

Purpose: The state investment board proposes amending chapter 287-02 WAC to better conform such chapter to: (1) Recent changes in the law concerning public records; (2) model rules recommended by the attorney general's office (chapter 44-14 WAC), and (3) current agency practices.

Citation of Rules Affected by this Order: Repealing WAC 287-02-057, 287-02-067 and 287-02-070; and amending WAC 287-02-015, 287-02-023, 287-02-025, 287-02-033, 287-02-045, 287-02-047, 287-02-055, 287-02-065, 287-02-075, 287-02-080, and 287-02-090.

Statutory Authority for Adoption: RCW 42.56.040, 42.56.070, 42.56.100 and 42.56.120, and chapter 304, Laws of 2017.

Adopted under notice filed as WSR 18-15-071 on July 17, 2018.

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 11, Repealed 3.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 11, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 11, Repealed 3.

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 21, 2018.

Christopher Fournier
Contracts and Public
Records Specialist

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

WAC 287-02-015 Definitions. The definitions set forth in RCW 42.56.010 apply throughout this chapter. In addition, the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

~~("Day" unless otherwise stated, means any day of the week on which banks and the NYSE are open for business for the conduct of all regular business.)~~ "Copy" means an identical reproduction of a public record. A copy can be either an electronic or physical reproduction of a public record.

"Executive director" means the executive director of the Washington state investment board.

"Page" means one impression on a single side of a sheet of paper. It also applies to one electronic image of one side of a sheet of paper.

"Public records manager" means the public records manager or designee for the Washington state investment board appointed by the executive director.

"WSIB" or "board" means the Washington state investment board established in chapter 3, Laws of 1981. Where appropriate, WSIB or agency also refers to the staff and employees of the Washington state investment board.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

WAC 287-02-023 Description of the Washington state investment board. The Washington state investment board, created in chapter 3, Laws of 1981, and codified in chapter 43.33A RCW, is an independent board of trustees whose fiduciary responsibility is to manage retirement and public fund investments with the highest standard of professional conduct. The board's primary investment objective is to maximize returns at a prudent level of risk for the exclusive benefit of fund participants and beneficiaries.

Individual board members are appointed by the chair to serve on any of the board's four different committees which

act as extensions of the board. The committees' function is to efficiently analyze investment and governance issues with greater scrutiny than would be practicable for the full board. Committee recommendations are brought to the board for consideration and a vote. The four committees are:

Administrative committee

The administrative committee oversees organizational, personnel, budget, legal, and legislative issues, as well as strategic asset allocation.

Audit committee

The audit committee assists the board in financial oversight of the WSIB including risk management, compliance monitoring, internal and external audits, corporate governance and proxy voting.

Private markets committee

The private markets committee develops policy and structure for private market and real estate opportunities and reviews those investments for recommendations to the board.

Public markets committee

The public markets committee develops policy and structure for public market investments (fixed income, domestic equity, international equity) and reviews individual equity managers to recommend to the board.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

WAC 287-02-025 Organizations, operations and procedures. The state investment board is charged with the duty to invest certain trust and public funds, as set forth in RCW 43.84.150, and chapter ~~((3, Laws of 1981))~~ 43.33A RCW. The board meets at least quarterly, at times and locations determined by the board, in order to perform its duties. All such meetings comply with the Open Public Meetings Act.

Operative structure

The WSIB is a small agency with staff working in three divisions - Investments, operations, and institutional relations. The WSIB's executive director is appointed by the board to oversee the staff, develop and recommend agency and investment policies for board adoption, and ensure adherence to state policies and laws.

The WSIB framework is similar to most investment management organizations, with a board and executive management providing firm-wide leadership with major operating units for investment management, operations, ~~((research, risk control, financial management and administration, and public affairs or client services))~~ human resources, risk control, legal and compliance, financial management and administration, and public affairs.

Investment professionals comprise the investment division which manages investments in major asset classes including public equity, private equity, real estate, tangible assets, ~~((and))~~ fixed income ~~((The investment division is also aided by a))~~ and risk management and asset allocation. Each asset class is led by one or more senior investment officers ~~((whose role is))~~ who supervise their asset class' investment staff and serve as the WSIB's primary portfolio risk analysts and ~~((the development of))~~ develop asset allocation strate-

gies. The division employs both internal and external investment management strategies.

The operations division provides a number of services in support of the investment function, including trade settlement, cash management, private market funding, cash and stock distributions, foreign and domestic tax matters, and investment compliance monitoring. It provides agency-wide risk management, information systems management, ~~((human resources,))~~ and administrative services.

The institutional relations division oversees essential areas of strategic communications and related duties typically found in a client services division of an investment management entity. These duties include performance reporting, annual report preparation, proxy voting, corporate governance and managing interactions and relationships with external entities to ensure transparency and dissemination of accurate and timely information.

The administrative office of the investment board and its staff are located at 2100 Evergreen Park Drive S.W., Olympia, Washington 98502.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

WAC 287-02-033 Public records ~~((manager))~~ officer.

(1) The public records ~~((manager))~~ officer is appointed by the executive director and is located in the legal, risk and compliance unit within the operations division of the WSIB.

(2) The public records ~~((manager))~~ officer is in charge of the WSIB's public records program. The public records ~~((manager))~~ officer is responsible for the implementation of the WSIB's rules regarding the release of public records for inspection and copying, coordinating the WSIB staff in this regard, and overseeing compliance with the Public Records Act requirements in chapter 42.56 RCW.

(3) The public records ~~((manager))~~ officer may choose a designee to act in his or her place to carry out the responsibilities in this chapter, including processing and responding to public records requests. The WSIB's public records ~~((manager))~~ officer will provide the fullest assistance to requestors.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

WAC 287-02-045 Processing of public records requests—Request. (1) Any person wishing to inspect or copy public records of WSIB may submit the request in writing using the WSIB's request form, or by letter, ~~((fax,))~~ or email addressed to ~~((the public records manager))~~ RequestPublicRecords@sib.wa.gov. The request should include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any email address;
- Identification of the public records adequate for the public records manager to locate the records; and
- The date ~~((and time of day))~~ of the request.

(2) A request for all, or substantially all, of the WSIB's records is not a valid request for identifiable records.

(3) If the requestor wishes to have copies of the records made instead of inspecting them, he or she should so indicate. Costs will be assessed in compliance with WAC 287-02-075.

~~((3))~~ (4) A request form is available for use by requestors at the ~~((office of the public records manager and))~~ administrative office of the WSIB and online at <http://www.sib.wa.gov>.

~~((4))~~ The public records manager may accept public records requests by telephone or in person; however, the requesting party may be asked to reduce the request to writing. In the alternative, the public records manager may confirm receipt of the request and restate the substance of the request in writing. (5) Requests may also be submitted to the receptionist at the WSIB by telephone or in person; however, the requesting party may be asked to reduce the request to writing for the sake of clarity. Alternatively, the public records officer may confirm receipt of the request and restate the substance of the request in writing.

(6) The WSIB may deny a bot request, or a request that is one of multiple requests made by the same requestor within a twenty-four-hour period, if responding to the multiple requests would cause excessive interference with essential WSIB functions and the WSIB reasonably believes the request to be automatically generated by a computer program or script.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

WAC 287-02-047 Processing of public records requests—Response. (1) Within five business days of receipt of the request, the public records manager will do one or more of the following:

(a) ~~((Make the records available for inspection or copying;~~

~~((b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;~~

~~((c) Provide a reasonable estimate of when records will be available; or~~

~~((d) If the request is unclear or does not sufficiently identify the requested records, obtain clarification from the requestor. Such clarification may be obtained and provided by telephone. The public records manager may then revise the estimate of when records will be available; or))~~ Produce the requested records;

(b) Provide the requestor with a link to the requested documents located on the internet;

(c) Provide a reasonable estimate of when records will be available;

(d) Seek clarification of the request and provide a reasonable estimate (where possible) of when records will be provided if no clarification is received; or

(e) Deny the request.

(2) ~~((In the event that the requested records))~~ If records responsive to the request contain information implicating a third party's privacy or financial interest and any exemption from disclosure of that information arguably applies, the public records ~~((manager will, prior to releasing the records to the requestor, give notice to such third parties whose rights~~

may be affected by the disclosure. Such notice is provided so as to make it possible for those third parties to seek an order from a court to prevent or limit the disclosure pursuant to RCW 42.56.540.

The notice shall inform the third party that a request has been made for a record that pertains to the third party and that the WSIB plans to disclose the record in a specified amount of time unless the third party obtains an injunction pursuant to RCW 42.56.540 blocking disclosure. The WSIB shall inform the record requestor that it is providing third party notice.

(3) Some records are exempt from disclosure, in whole or in part. If WSIB believes that an entire record is exempt from disclosure and should be withheld, the public records manager will identify the record, state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, the public records manager will redact the exempt portions, provide the nonexempt portions, state the specific exemption and provide a brief explanation of why the portions of the record are exempt from disclosure.

(4) When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records manager will close the request and indicate to the requestor that WSIB has closed the request)) officer may give notice to those parties before releasing the records. Such notice provides those third parties an opportunity to seek a court order pursuant to RCW 42.56.540. The WSIB will inform the record requestor that it is providing third-party notice.

(3) If records responsive to the request are exempt from disclosure, in whole or in part, the public records officer will identify the record, state the specific exemption, and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, the public records officer will produce the nonexempt portions.

(4) If a requestor withdraws the request, fails to inspect the records, fails to pay the deposit if required under WAC 287-02-065 and 287-02-075, or make final payment for the requested records, the public records officer will close the request.

(5) The WSIB is not required to create new documents in order to respond to a request for public records or to provide records that are not the WSIB's own public records.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

WAC 287-02-055 Inspection of public records. (1) Consistent with other demands, WSIB will provide space to inspect public records. ((No member of the public may remove a document from the viewing area or disassemble or alter any document.)) No requestor may remove a document from the viewing area or disassemble, reorder, deface, photograph, or in any way alter any records or collection of records. The requestor may also be supervised by a WSIB employee during the requestor's inspection of the records.

(2) After inspection is complete, the requestor ((shall)) will identify which documents, if any, he or she wishes the agency to ((copy)) produce. Consistent with other demands and the volume of documents requested, WSIB may copy the document at that time or provide the copies to the requestor at a later date.

(3) Within thirty days of the WSIB's notification that the records are available for inspection or copying, the requestor must claim or review the assembled records. ((The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the WSIB may close the request and refile the assembled records.)) If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the WSIB may close the request. If the requestor makes a request for the same records, it will be processed as a new request.

(4) When the inspection of the requested records is complete and all requested copies are provided, the public records ((manager)) officer will indicate that WSIB has completed its search for the requested records and made any nonexempt records available for inspection.

(5) Many records are available on the WSIB web site at www.sib.wa.gov, and requestors are encouraged to review the documents available on the web site prior to submitting a records request.

(6) Records will be made available to the requestor subject to the following restrictions:

(a) The records may not be removed from the area designated;

(b) The quantity of records may be limited in accordance with the requested use;

(c) All possible care must be taken by the requestor to prevent damage to the records;

(d) Records may not be marked, altered, cut, mutilated, or defaced in any way including writing on, folding or folding anew if in folded form, tracing or fastening with clips or other fasteners except those that may already exist in the file;

(e) Use of liquids and fountain pens and eating, drinking, and smoking while utilizing the records is prohibited;

(f) Records must be kept in the order in which received;

(g) All copying of records will be done by WSIB personnel; and

(h) Records will be returned to the public records officer by the requestor at the conclusion of the time given to inspect records and no later than the end of the customary office hours as set forth in WAC 287-02-035.

(7) When a requestor requests records in an electronic format, the public records officer will provide available non-exempt electronic public records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record, or as otherwise agreed to between the requestor and the public records officer.

(8) Whenever possible, WSIB will provide records in electronic format. If the WSIB has only a paper copy of the

record, the WSIB, when feasible, may scan the paper record and provide the resulting electronic copy to the requestor. If the WSIB maintains the record in electronic format, the record will be provided in the maintained electronic format unless the requestor specifically asks to receive the record in paper copies or it is otherwise not feasible to provide the record in electronic format.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

WAC 287-02-065 Response to public records request —Installments. (1) ~~((When a response to a public records request is complex or involves a large number of records, the public records manager may provide access for inspection and copying in installments pursuant to RCW 42.56.080.))~~ The public records officer may provide records or access for inspection and copying in installments.

(2) ~~((The))~~ Requestors will be notified when an installment is ready ((for inspection. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records manager may close the request.

(3) When the request is for copies of public records, the public records manager may require payment for each installment either prior to providing the installment or prior to providing subsequent installments. In addition, the requestor may be required to provide a deposit up to ten percent of the estimated cost of copying all records selected by the requestor. If the requestor fails to pay the required cost within thirty days, the public records manager may close the request). If a requestor fails to inspect or collect an installment within thirty days, the public records officer may close the request.

(3) Where payment is required as part of a public records request under WAC 287-02-075, the public records officer may require payment for each installment either prior to providing the installment or prior to providing subsequent installments and may require a deposit up to ten percent of the estimated cost of preparing or producing an installment. If the requestor fails to pay the required cost in a timely manner the public records officer may close the request.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

WAC 287-02-075 Costs of providing public records.

(1) There is no fee for inspecting public records. WSIB may impose a charge for providing public records. ~~((WSIB will maintain a fee schedule on its web site.~~

(2) ~~The charge for providing public records may be the actual cost incident to providing the records.~~

(a) ~~The charge may include the actual cost of the postage or delivery, including the cost of the shipping container, cost of duplicating tape recordings, videotapes, photographs, slides, disks or similar media.~~

(b) ~~There will be no charge for emailing electronic records to a requestor, unless another cost applies.~~

(3) ~~If determining the actual cost is too burdensome or if the cost cannot be determined, WSIB may charge fifteen cents for each page, however produced.~~

(4) ~~Before beginning to copy public records, the public records manager may require:~~

(a) ~~A deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor;~~

(b) ~~The payment of the remainder of the copying costs before providing all the records; or~~

(c) ~~The payment of the costs of copying an installment before providing that installment. The WSIB will not charge sales tax when it makes copies of public records.~~

(5) ~~Payment may be made by cash in the exact amount charged, check, or money order to the Washington state investment board.))~~

(2) The WSIB does not calculate the actual costs for copying its records, because doing so would be unduly burdensome and it is in the public's best interest for the WSIB to adopt the fees in RCW 42.56.120 (2)(b). The WSIB fee schedule is:

<u>WSIB Fee Schedule</u>	
<u>Inspection:</u>	
<u>No fee</u>	<u>Inspection of agency records on agency public internet web site or scheduled at agency office.</u>
<u>No fee</u>	<u>Accessing or downloading records the agency routinely posts on its public internet web site, unless the requestor asks the agency for records to be provided through other means (the following copy charges below then apply).</u>
<u>Copies:</u>	
<u>15 cents/page</u>	<u>Photocopies, printed copies of electronic records when requested by the requestor, or for the use of agency equipment to make photocopies.</u>
<u>10 cents/page</u>	<u>Scanned records, or use of agency equipment for scanning.</u>
<u>5 cents/each 4 electronic files or attachments</u>	<u>Records uploaded to email, or cloud-based data storage service, or other means of electronic delivery.</u>
<u>10 cents/gigabyte</u>	<u>Records transmitted in electronic format or for use of agency equipment to send records electronically.</u>

<u>WSIB Fee Schedule</u>	
<u>Actual cost</u>	<u>Digital storage media or devices:</u> <ul style="list-style-type: none"> • <u>CD</u> • <u>DVD</u> • <u>Thumb drive</u> • <u>Other.</u>
<u>Actual cost</u>	<u>Postage or delivery charges - Specific amount based upon postage/delivery charges for specific mailings or deliveries.</u>
<u>↑ Copy charges above may be combined to the extent more than one type of charge applies to copies responsive to a particular request.</u>	
<u>Customized Service:</u>	
<u>Actual cost</u>	<u>Data compilations prepared or accessed as a customized service (cost is in addition to above fees for copies).</u>

(3) The WSIB may charge the actual costs of providing electronic or paper copies in response to a public records request when complying with the public records request will require IT expertise to prepare data compilations or provide customized electronic access services that are not used by the WSIB for any other purpose.

(4) Before producing public records, the public records officer may require:

(a) A deposit of up to ten percent of the estimated costs of copying all the records requested;

(b) The payment of the remainder of the costs before providing all the records; or

(c) The payment of the costs of providing an installment before providing that installment. The WSIB will not charge sales tax when it makes copies of public records.

(5) Payment may be made by cash in the exact amount charged, check, or money order made payable to the Washington state investment board.

(6) If a requestor fails to pay for records in full or in part by the requested due date, the request will be closed.

(7) The WSIB may enter into any contract, memorandum of understanding, or other agreement with a requestor that provides an alternative fee arrangement to the fees charged above when the response to the particular request is voluminous or frequently occurring.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

WAC 287-02-080 Review of denials of requests for public records. (1)(a) Any person who has been denied an opportunity to inspect or copy a public record by the WSIB or who believes that the WSIB has not made a reasonable estimate of the time required to respond to a public record request may petition the WSIB for prompt review of its decision.

(b) The petition shall be in writing and shall include a copy of, or reasonably identify, the written statement by the public records (~~manager~~) officer denying the request or providing the estimate.

(c) The petition shall be sent to the public records (~~manager who shall promptly provide the petition and any other relevant information to the agency official designated by the agency to conduct the review.~~

(2) The designated WSIB official will immediately consider the petition and either affirm or reverse the denial or the estimate. This review will be complete within two business days following WSIB's receipt of the petition, or within such times as mutually agreed by WSIB and the requestor.

(3) Administrative remedies shall not be considered exhausted until the WSIB has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

(4) Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.) officer at the WSIB's administrative offices or by email at RequestPublicRecords@sib.wa.gov. The public records officer will promptly provide the petition and any other relevant information to the executive director or the assigned delegate.

(2) The executive director or assigned delegate will immediately consider the petition and either affirm or reverse the denial or the estimate. This review will be complete within five business days following WSIB's receipt of the petition, or within such times as mutually agreed by WSIB and the requestor.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

WAC 287-02-090 Communications with the agency.

All communications with WSIB to access public records of the WSIB or seek assistance in making such a request, or for the purpose of obtaining information, making submittals or requests, or making inquiries concerning the agency's rules for compliance with chapter 42.56 RCW (~~shall~~) or seeks review under WAC 287-02-080 must be addressed as follows:

Washington State Investment Board
 Public Records Manager
 2100 Evergreen Park Drive S.W.
 P.O. Box 40916
 Olympia, WA 98504-0916

((The telephone number of the public records manager is 360-956-4748, or you can email your request to)) Email: PublicRecordsRequest@sib.wa.gov.

Information is also available at the WSIB web site at <http://www.SIB.wa.gov>.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 287-02-057 Protection of public records.

- WAC 287-02-067 Processing public records requests—
Electronic records.
- WAC 287-02-070 Exemptions.

WSR 18-18-020
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed August 24, 2018, 2:46 p.m., effective September 24, 2018]

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

Purpose: The department is amending WAC 388-829-0005 Who do the training requirements in this chapter apply to?, to add community crisis stabilization services (CCSS) and state-operated living alternatives (SOLA) to the scope of chapter 388-829 WAC. These amendments ensure CCSS and SOLA program staff receive the same training as the developmental disabilities administration's other residential service providers.

Citation of Rules Affected by this Order: Amending WAC 388-829-0005.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 74.39A.009.

Adopted under notice filed as WSR 18-13-070 on June 15, 2018.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

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

Number of Sections Adopted at the Request of a Non-governmental 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 23, 2018.

Cheryl Strange
Secretary

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

WAC 388-829-0005 Who do the training requirements in this chapter apply to? (1) The training requirements in this chapter apply to:

(a) Community residential service businesses (~~(as defined in)~~) under RCW 74.39A.009(~~(7)~~);

(b) Alternative living (~~(as defined in)~~) providers under chapter 388-829A WAC(~~(7)~~);

(c) Community crisis stabilization services providers under chapter 388-833 WAC; and

(d) Companion home(~~(as defined in)~~) providers under chapter 388-829C WAC. (~~(11)~~)

(2) Under this chapter, the term (~~(service providers refers to all service providers within the scope of this chapter, which include)~~) "service provider" includes:

(a) Supported living service providers;

(b) State-operated living alternatives;

(c) DDA group homes;

(~~(e)~~) (d) Licensed staffed residential homes;

(~~(4)~~) (e) Alternative living providers;

(f) Community crisis stabilization services for children; and

(~~(e)~~) (g) Companion home providers.

(~~(2)~~) (3) A DDA group (~~(homes)~~) home licensed as an adult family (~~(homes)~~) home or assisted living (~~(facilities)~~) facility must meet the training requirements in this chapter and the home care aide certification requirements (~~(described in)~~) under chapter (~~(388-112)~~) 388-112A WAC.

(4) All other service providers listed in subsection (~~(4)~~) (2) of this section must meet the training requirements in this chapter but are exempt from home care aide certification through the department of health.

WSR 18-18-023
PERMANENT RULES
WASHINGTON STATE PATROL

[Filed August 27, 2018, 7:49 a.m., effective September 27, 2018]

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

Purpose: This permanent rule creates new chapter 446-100 WAC, which provides authority to implement the bump-fire stock buy-back program. This new rule allows a person in possession of a bump-fire stock to relinquish the device to the Washington state patrol in exchange for a monetary payment.

Citation of Rules Affected by this Order: New chapter 446-100 WAC.

Statutory Authority for Adoption: Chapter 43.43 RCW.

Adopted under notice filed as WSR 18-15-033 on July 12, 2018.

A final cost-benefit analysis is available by contacting Kimberly Mathis, Agency Rules Coordinator, 106 11th Avenue S.W., Olympia, WA 98504, phone 360-596-4017, email Kimberly.mathis@wsp.wa.gov, web site wsp.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 27, 2018.

John R. Batiste
Chief

Chapter 446-100 WAC

BUMP-FIRE STOCK BUYBACK PROGRAM

NEW SECTION

WAC 446-100-010 Authority. The Washington state patrol will establish and administer a bump-fire stock buyback program in accordance with chapter 43.43 RCW.

NEW SECTION

WAC 446-100-015 Definitions. For the purpose of these rules, the following words and phrases will have the following meanings:

"Bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm with the effect of increasing the rate of fire achievable with the semiautomatic firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate reciprocating action that facilitates repeated activation of the trigger.

NEW SECTION

WAC 446-100-020 Procedures. The buyback program in which the Washington state patrol will pay one hundred fifty dollars to any Washington state resident, excluding gun dealers, who present a bump-fire stock that are in working condition, can be brought to a specified location.

(1) The Washington state patrol will hold events at its facilities throughout the state. These events will be announced on social media and the Washington state patrol web page at www.wsp.wa.gov.

(2) An individual must bring the bump-fire stock as defined in WAC 446-100-015 along with a valid driver's license or any other identification to a scheduled event.

(a) An individual must complete a voucher form provided by the Washington state patrol, with the individual's name and a valid mailing address for payment.

(b) The Washington state patrol will destroy the bump-fire stock and process the voucher form for payment.

(c) The Washington state patrol will issue a check and mail to the name and address on the voucher form.

WSR 18-18-025

PERMANENT RULES

LOWER COLUMBIA COLLEGE

[Filed August 27, 2018, 9:37 a.m., effective September 27, 2018]

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

Purpose: Repealing chapter 132M-136 WAC and replacing with chapter 132M-139 WAC, Use of college facilities for expressive activities and chapter 132M-141 WAC, Rental of college facilities. This change is made to accommodate current practices and changes in case law regarding expressive activities on college campuses. The change designates certain areas of campus as public use areas, times of the day for use of these areas, and restrictions and requirements for use. The change modifies restrictions on distribution of materials on campus. The change modifies restrictions for rental of college facilities.

Citation of Rules Affected by this Order: New WAC 132M-139-100, 132M-139-105, 132M-139-110, 132M-139-115, 132M-139-120, 132M-139-125, 132M-139-130, 132M-141-100, 132M-141-105, 132M-141-110, 132M-141-115, 132M-141-120, 132M-141-125, 132M-141-130, 132M-141-135, 132M-141-140 and 132M-141-145; and repealing WAC 132M-136-020, 132M-136-030, 132M-136-050, 132M-136-060, 132M-136-080, and 132M-136-100.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 18-12-093 on June 5, 2018.

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 the Request of a Non-governmental 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 17, Amended 0, Repealed 6.

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 22, 2018.

Kendra Sprague
Vice President of Foundation
Human Resources and Legal Affairs

Chapter 132M-139 WAC

USE OF COLLEGE FACILITIES—EXPRESSIVE ACTIVITIES

NEW SECTION

WAC 132M-139-100 Title. This chapter shall be known as use of college facilities for expressive activities.

NEW SECTION

WAC 132M-139-105 Definitions. (1) "College facilities" includes all buildings, structures, grounds, office space and parking lots.

(2) "College groups" means individuals or groups who are currently enrolled students or current employees of the college, or guests of the college who are sponsored by a recognized student organization, employee organization, or the administration of the college.

(3) "Expressive activity" includes, but is not limited to, informational picketing, petition circulation, the distribution of informational leaflets or pamphlets, speech-making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments and/or other types of assemblies to share information, perspective or viewpoints.

(4) "Noncollege groups" means individuals, or combinations of individuals, who are not currently enrolled students or current employees of the college and who are not officially affiliated or associated with, or invited guests of a recognized student organization, recognized employee group, or the administration of the college.

(5) "Public use areas" means those areas of each campus that the college has chosen to open as places where noncollege groups may assemble for expressive activity protected by the First Amendment, subject to reasonable time, place, or manner restrictions.

NEW SECTION

WAC 132M-139-110 Statement of purpose. Lower Columbia Community College District is an educational institution provided and maintained by the people of the state of Washington. College facilities are reserved primarily for educational use including, but not limited to, instruction, research, public assembly of college groups, student activities and other activities directly related to the educational mission of the college. The public character of the college does not grant to individuals an unlimited license to engage in activity which limits, interferes with, or otherwise disrupts the normal activities to which the college's facilities and grounds are dedicated. Accordingly, the college designates the common areas of the college as a limited public forum dedicated to the use of college groups, subject to the time, place, and manner limitations and restrictions set forth in this policy.

The purpose of the time, place, and manner regulations set forth in this policy is to establish procedures and reasonable controls for the use of college facilities. It is intended to balance the college's responsibility to fulfill its mission as a state educational institution of Washington with the interests of college groups seeking to assemble in common areas of the campus for expressive activity. The college recognizes that college groups should be accorded the opportunity to utilize the facilities and grounds of the college to the fullest extent possible. The college has designated certain facilities as public use areas open to noncollege groups as set forth herein.

NEW SECTION

WAC 132M-139-115 Use of facilities. (1) Subject to the regulations and requirements of this policy, groups may use the campus limited forums for expressive activities between the hours of 7:00 a.m. and 10:00 p.m.

(2) Any sound amplification device may only be used at a volume which does not disrupt or disturb the normal use of classrooms, offices or laboratories, or any previously scheduled college event or activity.

(3) Groups are encouraged to notify the campus public safety department no later than twenty-four hours in advance of an event. However, unscheduled events are permitted so long as the event does not materially disrupt any other function occurring at the facility.

(4) All sites used for expressive activity should be cleaned up and left in their original condition and may be subject to inspection by a representative of the college after the event. Reasonable charges may be assessed against the sponsoring organization for the costs of extraordinary cleanup or for the repair of damaged property.

(5) All fire, safety, sanitation, or special regulations specified for the event are to be obeyed. The college cannot and will not provide utility connections or hook-ups for purposes of expressive activity conducted pursuant to this policy.

(6) The event must not be conducted in such a manner to obstruct vehicular, bicycle, pedestrian or other traffic or otherwise interfere with ingress or egress to the college, or to college buildings or facilities, or to college activities or events. The event must not create safety hazards or pose unreasonable safety risks to college students, employees, or invitees to the college.

(7) The event must not substantially and materially interfere with educational activities inside or outside any college building or otherwise prevent the college from fulfilling its mission and achieving its primary purpose of providing an education to its students. The event must not materially infringe on the rights and privileges of college students, employees, or invitees to the college.

(8) There shall be no overnight camping on college facilities or grounds. Camping is defined to include sleeping, carrying on cooking activities, or storing personal belongings for personal habitation, or the erection of tents or other shelters or structures used for purposes of personal habitation.

(9) College facilities may not be used for commercial sales, solicitations, advertising or promotional activities, unless:

(a) Such activities serve educational purposes of the college; and

(b) Such activities are under the sponsorship of a college department or office or officially chartered student club.

(10) The event must also be conducted in accordance with any other applicable college policies and regulations, local ordinances and state or federal laws.

(11) Individuals or organizations in college facilities, buildings and grounds when campus is closed may be asked to leave if not participating in an activity sanctioned by chapter 132M-139 WAC. The college does not discriminate based on race, color, or national origin in the removal of individuals

or organizations from campus. College hours may be found at lowercolumbia.edu/contact.

NEW SECTION

WAC 132M-139-120 Additional requirements for noncollege groups. (1) The college designates the following area as the sole limited public forum area for use by noncollege groups for expressive activity on campus: Quad area in front of admissions building. The public use area may be scheduled. Scheduled groups have priority of use over unscheduled groups.

(2) Noncollege groups that seek to engage in expressive activity on the designated public use area are encouraged to provide notice to the campus public safety office no later than twenty-four hours prior to the event, along with the following information solely to ensure:

- (a) The area is not otherwise scheduled; and
- (b) To give the college an opportunity to assess any security needs:
 - (i) The name, address, and telephone number of a contact person for the individual, group, entity, or organization sponsoring the event;
 - (ii) The date, time, and requested location of the event;
 - (iii) The nature and purpose of the event; and
 - (iv) The estimated number of people expected to participate in the event.

NEW SECTION

WAC 132M-139-125 Distribution of materials. (1) Information may be distributed as long as it is not obscene or libelous or does not advocate or incite imminent unlawful conduct. The sponsoring organization is encouraged, but not required, to include its name and address on the distributed information. Noncollege groups may distribute materials only at the site designated for noncollege groups.

(2) All college groups and noncollege groups wishing to post material on college bulletin boards shall contact the director of student programs.

(3) Any student who violates any provision of this section shall be subject to disciplinary action.

(4) Any distribution of materials regulated by established policies and authorized under this section by the director of student programs shall not be construed as support or approval of the content by the college or by the board of trustees of Washington Community College District No. 13.

NEW SECTION

WAC 132M-139-130 Criminal trespass. (1) Noncollege groups who violate these rules, any provision of the conduct code, or whose conduct jeopardizes the health or safety of others, will be advised of the specific nature of the violation, and if they persist in the violation, will be requested by the campus president or designee to leave the college property. Such a request will be deemed to withdraw the license or privilege to enter onto or remain upon any portion of the college facilities of the person or group of persons requested to leave, and subject such individuals to arrest under the crimi-

nal trespass provisions of chapter 9A.52 RCW or municipal ordinance.

(2) Members of the college community (students, faculty, and staff) who do not comply with these regulations will be reported to the appropriate college office or agency for action in accord with established college policies.

(3) When the college revokes the license or privilege of any person to be on college property, temporarily or for a stated period of time, that person may file a request for review of the decision with the vice president of administration or designee within ten calendar days of receipt of the trespass notice. The request must contain the reasons why the individual disagrees with the trespass notice. The trespass notice will remain in effect during the pendency of any review period. The decision of the vice president of administration or designee will be the final decision of the college and should be issued within five business days.

Chapter 132M-141 WAC

RENTAL OF COLLEGE FACILITIES

NEW SECTION

WAC 132M-141-100 Title. WAC 132M-141-100 through 132M-141-140 will be known as rental of college facilities.

NEW SECTION

WAC 132M-141-105 Statement of purpose. Lower Columbia College reserves its facilities, buildings and grounds for those activities that are related to its broad educational mission. As such, individuals or organizations in college facilities, buildings and grounds when campus is closed may be asked to leave if not participating in an activity sanctioned by chapter 132M-139 or 132M-141 WAC. College hours may be found at lowercolumbia.edu/contact. At other times, the college facilities may be made available to other individuals and organizations as stated in this chapter. The purpose of these regulations is to establish procedures and reasonable controls for the use of college facilities for noncollege groups and for college groups where applicable.

In keeping with this general purpose, and consistent with RCW 28B.50.140 (7) and (9), facilities should be available for a variety of uses which are of benefit to the general public if such general uses substantially relate to and do not interfere with the mission of the college. However, a state agency is under no obligation to make its public facilities available to the community for private purposes.

Primary consideration shall be given at all times to activities specifically related to the college's mission, and no arrangements shall be made that may interfere with, or operate to the detriment of, the college's own teaching or public service programs.

Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and to ensure the proper maintenance of the facilities. Subject to the same limitations, college facilities shall be made available for assignment to individuals or groups within the college community. Such

arrangements by either individuals or groups within the college community must be made through the designated facility rental coordinator.

NEW SECTION

WAC 132M-141-110 Insurance. College buildings, rooms, and athletic fields may be rented by noncollege groups in accordance with the college's facilities use policy. When renting college buildings or athletic fields, an individual or organization may be required to post a bond and/or obtain insurance to protect the college against cost or other liability in accordance with the college's facility use policy. When the college grants permission to use its facilities it is with the express understanding and condition that the individual or organization assumes full responsibility for any loss or damage.

Noncollege groups may otherwise use college facilities for expressive activity as identified in chapter 132M-139 WAC.

NEW SECTION

WAC 132M-141-115 Request for use of facilities. Requests to use college facilities shall be made to the designated facilities rental coordinator, who shall be the agent of the college in consummating use agreements.

NEW SECTION

WAC 132M-141-120 Scheduling and reservation practices. The primary purpose of college facilities is to serve the instructional programs of the college. However, the facilities, when not required for scheduled college use, may be available for use in accordance with current fee schedules and other relevant terms and conditions for such use.

College facilities may not be used by individuals or groups from outside the college unless the facilities including buildings, equipment, and land have been reserved.

In determining whether to accept a request for the use of college facilities, the designated facilities rental coordinator shall use as guidelines the mission of the college and the following items, listed in priority order:

- (1) Lower Columbia College instruction, scheduled programs and activities.
- (2) Major college events.
- (3) Noncollege (outside individual or organization) events.

Arrangements for use of college facilities must be made through the designated facilities rental coordinator. Application for the use of facilities and grounds shall be made no later than ten working days prior to the date the event is scheduled to occur.

NEW SECTION

WAC 132M-141-125 Limitations of use. (1) Where college space is used for an authorized function (such as a class or a public or private meeting under approved sponsorship, administrative functions, or service-related activities),

groups must obey or comply with directions of an authorized representative of the college.

(2) If at any time actual use of college facilities by an individual or group constitutes an unreasonable disruption of the normal operation of the college, such use shall immediately terminate, all persons engaged in such use shall immediately vacate the premises, and leave the college property upon command of the appropriate college official.

(3) Any individual or group granted permission to use college facilities shall agree in advance to abide by all college rules and regulations and all laws and ordinances. The college reserves the right to deny use of college facilities to any individual or group whose past conduct indicates likelihood that college rules and regulations will not be obeyed. The college may also deny use to a requesting individual or organization which has used the facilities in the past and has damaged college property, left college buildings and grounds in excessive disorder, or failed to cooperate with college staff concerning use of the facilities.

(4) No person may enter onto college grounds or facilities possessing a firearm or other dangerous weapon, even if licensed to do so, except duly appointed and commissioned law enforcement officers.

(5) Promotional materials or posting for any event being held in a college facility must follow the same procedure as outlined in WAC 132M-139-125.

(6) Use of audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of college affairs.

(7) The college facilities may not be used for private or commercial purposes unless such activities clearly serve the educational mission of the college and are either sponsored by an appropriate college unit or conducted by contractual agreement with the college.

(8) Activities will not be approved if they involve the use of promotional signs or posters on buildings, trees, walls, or bulletin boards, or the distribution of samples or brochures in violation of WAC 132M-139-125.

(9) Alcoholic beverages will not be served without the approval of the vice president for administrative services or designee(s). It shall be the responsibility of the event sponsor to obtain all necessary licenses from the Washington state liquor and cannabis board and adhere to their regulations including all state and local regulations and laws, and those of Lower Columbia College.

(10) Authorization for use of college facilities shall not be considered as endorsement of or approval of any group or organization nor the purposes they represent. The name of the college shall not be associated with any program or activity for which the college facilities are used without specific written approval from the president or his or her designee(s).

(11) Rental of college facilities carries no right of advertising on college premises other than the right to post a sign for the purpose of directing people to the place of assembly.

(12) Unless otherwise provided by contractual agreement, an authorized member of the college staff shall be required to be available at times when college facilities are in use by a group. If service beyond normal business hours is required as a result of any meeting, such time shall be paid by the using organization at the currently established rate. The

college may require and charge users for security services at the college's discretion.

(13) Audio-visual equipment and materials are intended to support and supplement the college's curriculum. Equipment shall not be rented to external users, unless official prior approval has been granted and currently established rates are charged. The existence of equipment in a rented space does not mean the user has the right to use it.

NEW SECTION

WAC 132M-141-130 Denial of use. Lower Columbia College is a state agency and exists to serve the public. However, the college may deny use of its facilities to any individual, group, or organization if the requested use would:

- (1) Interfere or conflict with the college's instructional, student services, or support programs;
- (2) Interfere with the free flow of pedestrian or vehicular traffic on campus;
- (3) Involve illegal activity;
- (4) Create a hazard or result in damage to college facilities; or
- (5) Create undue stress on college resources.

The college president hereby delegates his or her designee(s) the right to cancel the facilities rental agreement at any time and to refund any payment to the college for the use of college facilities. If imminent danger exists or unlawful activity is practiced by the using organization, or if there is any violation of any term, condition, or provision of the use arrangement, the college may terminate an agreement immediately and without notice.

NEW SECTION

WAC 132M-141-135 Other requirements. When using college facilities, an individual or organization may be required to make an advance deposit, post a bond and/or obtain insurance to protect the college against cost or other liability.

When the college grants permission to an individual or organization to use its facilities, it is with the expressed understanding and condition that the individual or organization assumes full responsibility for any loss or damage resulting from such use and agrees to hold harmless and indemnify the college against any loss or damage claim arising out of such use.

NEW SECTION

WAC 132M-141-140 Facility rental/use fees. Fees will be charged in accordance with the rates available from the designated facilities rental coordinator. The college reserves the right to make pricing changes without prior written notice, except that such price changes shall not apply to facility use agreements already approved by the administration.

Nonprofit organizations such as, but not limited to, those directly concerned with public schools and those sponsored by public schools or affiliated organizations may be allowed reasonable use of college facilities without the payment of a rental fee.

The college reserves the right to have trained college staff operate any and all technical equipment at the user's expense. Rates and fees for use of facilities are available by contacting the designated facilities rental coordinator.

NEW SECTION

WAC 132M-141-145 Outside speakers. (1) The college subscribes to the proposition that an important aspect of the education of college students is the opportunity to listen to speakers representing a wide variety of opinions and beliefs on important public issues. The following is established governing the appearance on campus of speakers not themselves members of the college community.

(2) Any recognized ASLCC student organization with written sanction of the director of student programs, may invite individuals to speak on campus.

(3) The appearance of an invited speaker on the campus does not involve an endorsement, either implicit or explicit, of their views by this college, its students, its faculty, its administration, or its board.

(4) The vice president of student services will be notified at least ten days prior to the appearance of an invited speaker.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132M-136-020 Distribution of materials policy.
- WAC 132M-136-030 Outside speaker policy.
- WAC 132M-136-050 Outside organizations meeting with students.
- WAC 132M-136-060 Use of college facilities.
- WAC 132M-136-080 Use of college services and equipment by outside groups.
- WAC 132M-136-100 Commercial activities.

WSR 18-18-034

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed August 28, 2018, 1:33 p.m., effective September 28, 2018]

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

Purpose: To align nonresident vessel permitting rules with recent legislation.

Citation of Rules Affected by this Order: Amending WAC 308-93-055.

Statutory Authority for Adoption: RCW 46.01.110, 88.02.610, and 88.02.620.

Adopted under notice filed as WSR 18-15-097 on July 18, 2018.

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 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 28, 2018.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-21-035, filed 10/9/13, effective 11/9/13)

WAC 308-93-055 Vessels from out-of-state operating in this state—Nonresident vessel permit required. (1) What must I provide to obtain a nonresident vessel permit? You must provide the following:

(a) Proof of nonresidency by showing the vessel owner's out-of-state driver's license or out-of-state photo identification; and

(b) A copy of the current foreign vessel registration or current United States Coast Guard certificate of documentation(;

~~(c) Date the vessel first came into the state;~~

~~(d) A nonrefundable fee of twenty-five dollars plus a filing fee and subagent fee, if applicable.~~

~~(2) How many nonresident vessel permits may be obtained? You may obtain two nonresident vessel permits in any continuous twelve-month period for any single vessel. The twelve months begins on the date the vessel first entered this state).~~

~~((3)) (2) How do I display the vessel visitor permit?~~

The permit must be visible to law enforcement from either the dock or from the water. It must be kept aboard the vessel at all times when moored and during operation and protected from the weather.

The permit must be clearly displayed either:

(a) In the windshield;

(b) On side window;

(c) In the cockpit; or

(d) In the operation area of the vessel.

~~((4) If the vessel owner is not available, how do I obtain a nonresident vessel permit? The person applying for the nonresident vessel permit must have a:~~

~~(a) Notarized or certified power of attorney from a registered owner of the vessel;~~

~~(b) Copy of the vessel owner's out-of-state driver's license or photo identification; and~~

~~(c) Copy of the out-of-state or out-of-country registration certificate.))~~

WSR 18-18-041
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket A-130355, General Order R-592—Filed August 29, 2018, 9:35 a.m., effective September 29, 2018]

In the matter of amending/adopting/repealing chapter 480-07 WAC, relating to the commission's procedural rules, governing the conduct of business before the commission, including rules governing formal proceedings.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 18-14 084, filed with the code reviser on July 2, 2018. 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 appendices, as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda preceding the filing of the CR-102 proposal and the adoption hearing. Together, 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 480-07-500 General rate proceedings—Statement of policy, 480-07-505 General rate proceedings—Definition—Tariff suspension, 480-07-510 General rate proceeding filings—Electric, natural gas, pipeline, and Class A telecommunications companies, 480-07-520 General rate proceeding filings—Solid waste collection companies and commercial ferries, 480-07-530 General rate proceeding filings—Water companies and Class B telecommunications companies, 480-07-540 General rate proceedings—Burden of proof, 480-07-610 Brief adjudicative proceedings, 480-07-620 Emergency adjudicative proceedings, 480-07-630 Telecommunications companies—Arbitration under the Telecommunications Act of 1996, 480-07-640 Telecommunications companies—Review and approval of interconnection agreements under the Telecommunications Act of 1996, 480-07-650 Petitions for enforcement of telecommunications company interconnection agreements, 480-07-660 Railroad grade-crossing closures, 480-07-700 Alternative dispute resolution, 480-07-710 Mediation, 480-07-720 Collaboratives, 480-07-730 Settle-

ment, 480-07-740 Settlement consideration procedure, 480-07-750 Commission discretion to consider and approve or reject a settlement, 480-07-800 Order entry, effectiveness, and service, 480-07-810 Interim or interlocutory orders, 480-07-820 Initial and final orders, 480-07-825 Initial orders—Finality; petitions for administrative review; motions for clarification, 480-07-830 Motion to reopen the record prior to entry of a final order, 480-07-835 Clarification of final order by motion, 480-07-840 Clarification of a final order by conference, 480-07-850 Reconsideration of a final order, 480-07-860 Stay, 480-07-870 Rehearing, 480-07-875 Amendment, rescission, or correction of order, 480-07-880 Compliance filings, 480-07-885 Subsequent filings, 480-07-900 Open public meetings, 480-07-903 Delegation of authority to the executive secretary, 480-07-904 Delegation of authority to decide certain matters, 480-07-905 Delegation of authority to enter *ex parte* orders, 480-07-910 Informal complaints, 480-07-920 Interpretive and policy statements, 480-07-930 Declaratory orders under RCW 34.05.240 and 480-07-940 Conversion of proceedings; adopting WAC 480-07-915 Penalty assessments and 480-07-917 Penalties for failure to file annual report and pay regulatory fees; and repealing WAC 480-07-550 General rate proceedings—Compliance filings and other resulting filings and 480-07-883 Compliance filing—Filing requirements; timing; commission action.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on March 20, 2013, at WSR 13-07-071.

8 The statement advised interested persons that the commission was considering undertaking a rule making to consider possible corrections and changes to certain sections in chapter 480-07 WAC, the commission's procedural rules governing the conduct of business before the commission, including informal proceedings. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), to all interested persons in the previous procedural rules rule-making docket A-050802, and to all persons on the commission's list of utility attorneys, transportation attorneys, and telecommunications attorneys. Pursuant to the notice, but rescheduled at later dates, the commission received comments on May 17, 2013, and held a stakeholder workshop on August 21, 2013.

9 SUBSEQUENT COMMENTS AND WORKSHOPS: The commission received additional comments on the rules that are the subject of this order on or about May 15, September 29, December 1, 2017, January 31, and May 11, 2018. The commission also held additional workshops on these rules on June 12, 2017, February 5, and March 26, 2018.

10 SMALL BUSINESS ECONOMIC IMPACT ANALYSIS: On March 21 and April 11, 2018, the commission issued small business economic impact questionnaires to all interested persons. The commission received no responses to these questionnaires. The proposed rules primarily reflect current commission practice, and the commission has no basis to find that any costs businesses will incur to comply with the rules will be more than minor. Pursuant to RCW 19.85.030 (1)(a), therefore, no small business economic impact statement is required.

11 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on July 2, 2018, at WSR 18-14-084. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 18-14-084 at 9:30 a.m., Monday, August 20, 2018, 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.

12 WRITTEN COMMENTS: The commission received comments on the proposed rules on or about August 1, 2018. Summaries of those written comments and commission staff's responses and recommendations are contained in Appendix A, shown below, and made part of, this order.

13 RULE-MAKING HEARING: The commission considered the proposed rules for adoption at a rule-making hearing on August 20, 2018, before Chairman David W. Danner, Commissioner Ann E. Rendahl, and Commissioner Jay M. Balasbas. The commission heard a presentation and comments from Gregory J. Kopta, Administrative Law Judge, representing commission staff (staff), and oral comments from representatives of Pacific Power & Light Company (Pacific), Puget Sound Energy (PSE), The Energy Project, the Public Counsel Unit of the office of the Washington attorney general (public counsel), CenturyLink, and the Alliance for Western Energy Consumers (AWEC).

14 SUGGESTIONS FOR CHANGE THAT THE COMMISSION REJECTS/ACCEPTS: Written and oral comments suggested changes to the proposed rules. The commission adopts staff's recommendations and reasons to accept or reject those suggestions contained in the summary matrix in Appendix A, except as modified or further discussed below.

WAC 480-07-505 (1)(b)

15 The Energy Project, public counsel, AWEC, and PSE all oppose the proposal to delete existing WAC 480-07-505 (1)(b), which defines as a general rate proceeding any filing that would raise the rates of any customer class by three percent or more. The consumer advocates maintain that this has been a longstanding requirement that provides important ratepayer protections, and they fail to see any benefit from its deletion. To the contrary, they fear that a utility could evade general rate proceeding requirements for a rate increase that disproportionately impacts one group of customers but would fall short of the overall three percent increase threshold that remains in the rule. While the commission could nevertheless exercise its discretion to treat such a filing as a general rate proceeding, the consumer advocates argue that the additional process to obtain such a commission determination would be expensive, result in unnecessary delay, and improperly shift the burden of making an appropriate filing from the utility to intervenors. PSE, for its part, believes that the existing rule provides greater clarity to utilities on the requirements they must satisfy when making their tariff filings.

16 The commission proposed the rule revision to reduce regulatory burdens. The rule applies to all utilities, not just the energy companies that are the focus of the commenters' concerns. For example, a small water company or other utility that seeks to rebalance its rates on a revenue neutral basis to remove implicit subsidies should not necessarily be required to do so in a general rate proceeding. We acknowl-

edge that the commission could waive the rule in such circumstances, but it may not do so until after the company makes its initial filing, resulting in unnecessary effort and expense. The commission has discretion to treat any filing as a general rate proceeding, which provides protection in the unlikely event that a company makes a filing that is not a general rate proceeding under the rule but one which the commission should so designate.

17 All of these arguments have merit. On balance, however, we find that retaining the existing rule language is the best option. As the commenters observe, this provision has been part of the commission's procedural rules for many years and is well understood by stakeholders and the commission alike. We continuously look for ways to streamline our processes and regulate only to the extent necessary. Here, however, we are convinced that the risk of uncertainty and unintended consequences outweighs the benefit of making this proposed change. Accordingly, we do not adopt the proposal to delete WAC 480-07-505 (1)(b).

WAC 480-07-510 (4)(a)

18 PSE objects to the proposed change to WAC 480-07-510 (4)(a) allowing parties up to five business days to provide the workpapers that support their testimony and exhibits. PSE contends that the additional two days will give the utility less time to evaluate other parties' filings before being required to file responsive testimony and exhibits. We find that this extra time accommodates the needs of parties with limited resources and adopt it. The parties and presiding administrative law judge in a general rate proceeding can consider the need for more or less time for filing workpapers or to make other accommodations when negotiating and establishing a procedural schedule. In addition, the proposed rules require a party's complete case be included in its testimony and exhibits, which should reduce all parties' reliance on workpapers.

WAC 480-07-740 (2)(a) and (b)

19 Pacific expressed concern at the rule-making hearing that requiring settlements to be filed sixty days (WAC 480-07-740 (2)(a)) or thirty days (WAC 480-07-740 (2)(b)) prior to a stated effective date could conflict with tariff suspension deadlines, leading to unintended results. To clarify the rule's intent, the commission agrees to revise the language in these subsections to state that settlements must be filed sixty or thirty days, as applicable, prior to any statutory deadline or stated effective date.

WAC 480-07-740 (2)(d)

20 Pacific and PSE raised the issue that requiring a utility in all instances to state whether it would be willing to waive any statutory deadline when filing a settlement agreement is overbroad, would facilitate gamesmanship by other parties during the negotiation process, and would be a disincentive to settlement. The commission agrees that is not the proposed rule's intent. Accordingly, we revise WAC 480-07-740 (2)(d) to provide that upon the filing of a settlement agreement, the commission may require a utility to state whether it would be willing to waive any statutory deadline if necessary to give the commission sufficient time to consider the settlement. This change provides notice that the commission may seek a waiver of a statutory deadline in appropriate circumstances, such as when a settlement is filed close to the statutory deadline for a commission final order.

WAC 480-07-750 (2)(b)

21 CenturyLink takes issue with the provision in the proposed rule that requires all parties to a settlement agreement to unequivocally accept any conditions the commission requires for its approval of the agreement or the settlement is deemed rejected. CenturyLink claims that this is a change that would require parties to forgo their right to judicial review of unlawful commission conditions. CenturyLink is particularly troubled that such conditions may be proposed by other parties, rather than developed by the commission. CenturyLink also contends that this take-it-or-leave-it approach would enable other parties to hold hostage companies seeking to timely complete mergers, acquisitions, or other multi-state transactions.

22 We decline to modify the proposed rule. The commission has always required parties to a settlement to accept any commission conditions on approval of the agreement before adopting the settlement as the commission's resolution of the disputed issues. The rule merely clarifies this requirement to preclude a party from accepting the commission's conditions, rather than requesting clarification or reconsideration of them, and then seeking judicial review of the order. Such action is inconsistent with the spirit and intent of the commission's procedural rules. Nor does the rule require a party to give up any rights it may have to judicial review. If a party opposes a commission condition on a settlement agreement, it may withdraw from the settlement, litigate the disputed issues in the commission adjudication, and seek judicial review of the commission's final order. Or the party may seek clarification or reconsideration of the order prior to determining whether to withdraw from the settlement. As discussed during the rule-making hearing, the commission also retains the flexibility to modify its procedures in a particular case to offer additional process to ensure fairness to all parties.

23 We understand that a party may face a difficult choice either to accept conditions it does not like in order to timely close a transaction, or reject those conditions and take the additional time to litigate the issues. That is the nature of the regulatory adjudicative process. The commission has an independent obligation to ensure that the resolution of the issues before it is consistent with the public interest, and we cannot and do not delegate that responsibility to the parties. When necessary to fulfill that obligation, we adopt conditions on parties' settlement agreements. Whether those conditions were proposed by a nonsettling party or developed independently by the commission, those conditions are the commission's when adopted in the final order. Thus, we find that the rule as proposed provides sufficient procedural safeguards to ensure that no party is deprived of due process or a full and fair opportunity to present its issues for commission determination, or from seeking judicial review.

Limited Rate Proceedings

24 PSE also requested in its comments and at the rule-making hearing that the commission adopt a draft rule proposed during the CR-101 phase of the rule making that would establish limited rate proceedings. PSE asserts that such a rule would promote certainty and efficiency in the commission's rate-making process. The draft rule provided that electric and natural gas companies could seek to adjust their rates based on updated data for rate base, revenues, and expenses

since the company's latest general rate proceeding through a limited rate proceeding that would be concluded within six months. During the rule-making process, and in draft rules circulated for discussion and comment prior to filing proposed rules with the code reviser, staff recommended that it was premature for the commission to proceed with the draft rule, given comments by stakeholders during a workshop and general rate cases pending before the commission. The commission found that recommendation appropriate and chose not to proceed with the draft rule. However, we agree that there is a need to address the efficiency of the commission's process and intend to open a docket to discuss the purposes and approaches for limited or expedited rate proceedings before the commission.

25 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend, repeal, or adopt the rules as proposed in the CR-102 at WSR 18-14-084 with the following changes discussed in Appendix A and paragraphs 14-17 and 19-20 above:

WAC 480-07-505(1) Do not delete existing subsection (b), and restore original subsection designations; do not delete "on common equity" in subsection (c).

WAC 480-07-510 (3)(a) In the first sentence, replace "all" with "sufficient" and delete "support its requests and proposals and"; in the second sentence, replace "all" with "sufficient" and replace "proposals" with "filed case."

WAC 480-07-510 (5)(a) Delete "Most recently calculated" at the beginning of subsection (viii) and add "for the test period" at the end.

WAC 480-07-740 (2)(a) Delete "the" and insert "any statutory deadline for commission action or" prior to "requested effective date."

WAC 480-07-740 (2)(b) Delete "the" and insert "any statutory deadline for commission action or" prior to "requested effective date."

WAC 480-07-740 (2)(d) In the first sentence, replace "When requesting" with "Upon receiving a request" at the beginning; insert "the commission may require the" prior to "party that submitted"; and replace "must" with "to."

26 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that the sections in chapter 480-07 WAC listed in paragraph 6 above should be amended, repealed, or adopted as applicable to read as set forth in Appendix B, 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 39, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 39, Repealed 2.

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

ORDER

27 THE COMMISSION ORDERS:

28 The commission amends chapter 480-07 WAC to read as set forth in Appendix B, as rules of the Washington utilities and transportation commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

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

DATED at Olympia, Washington, August 29, 2018.

Washington Utilities and Transportation Commission

David W. Danner, Chairman
Ann E. Rendahl, Commissioner
Jay M. Balasbas, Commissioner

Appendix A
A-130355 Procedural Rules
Summary of 8-01-18 Comments on Proposed Revisions
to Parts III B through IV

480-07	PPL & PSE	AWEC & TEP	CenturyLink	Public Counsel	Staff Response
505(1)		Retain current subsection (b), which provides that a filing that increases rates to any customer class by three percent or more will be treated as a rate case, as an important consumer protection.		Same as AWEC and TEP	Staff disagrees. A rate increase for one customer class, without more, should not necessarily trigger a rate case. A rate rebalancing, for example, could result in a rate increase for one customer class but leave overall revenues unchanged. The commission expressly retains the flexibility in subsection (4) to treat any filing as a rate case (without any requirement for a requesting party to engage in discovery or other adjudicative process to support its request), which provides sufficient protection against an attempt to evade the rule by targeting one customer class.
505 (1)(b)	PSE: Change "rate of return" to "return on common equity" so that a change to the cost of debt does not trigger a general rate case.				Staff agrees based on the recent commission orders PSE cites in support of its comment and recommends that the final rule incorporate this revision (i.e., not make the proposed change to this language).
510 (3)(a)	PSE: Clarify language to provide that the company must provide sufficient information to satisfy its burden of proof.				Staff agrees that PSE's proposed revisions provide useful clarification of the rule's intent and recommends that the final rule incorporate these changes.
510 (4)(a)	PSE: Do not extend time for filing work papers to five days, which would cause hardship to the company.				Staff disagrees. The current requirement results in hardship to parties with more limited resources than the utility. Parties can always seek a procedural schedule that modifies or accommodates the additional two business days the proposed revision provides.

480-07	PPL & PSE	AWEC & TEP	CenturyLink	Public Counsel	Staff Response
510 (5)(a)	PPL: Clarify "most recently calculated" rate of return in subsection (vii) to specify rate of return for the test period.				Staff agrees and recommends that the final rule incorporate this clarification.
740 (2)(a)			Clarify the meaning of "matters of comparable complexity" and retain the existing thirty day notice period.		Staff disagrees. The term is in the existing rule and is not readily susceptible to any greater precision than the current analogy to a rate case. Thirty days is also insufficient time for the commission to act on a settlement in a complex proceeding.
740 (2)(b)			Distinguish complex from less complex matters and retain the existing twenty-one days for less complex matters.		Staff disagrees. The rule currently uses these terms, and staff is unaware of any confusion about their meaning. Thirty days, moreover, is the same advance notice period as utility tariff filings, most of which are less complex matters.
740 (2)(d)	PPL: Clarify that statement about willingness to waive statutory deadline applies only if the settlement is filed with a shorter time frame than specified in subsection (a) or (b).				Staff disagrees. These subsections serve different purposes. No settlement, including a proposed tariff filing, is effective without commission approval, and the time frames in subsections (a) and (b) are intended to provide sufficient time for the commission to act in advance of a requested effective date. The commission must take action by a statutory deadline, however, and subsection (d) provides the commission with useful information to consider when determining whether to suspend a procedural schedule designed to allow the commission enough time to meet that deadline.
750 (2)(b)			Do not require each party to unequivocally accept commission conditions but make the default acceptance in the absence of express rejection.		Staff disagrees. The lack of unequivocal acceptance in the past has resulted in a settling party seeking judicial review of a commission order approving a settlement with conditions. The rule revision ensures that if any party does not accept a commission condition, the commission can adjudicate the case in the first instance.

480-07	PPL & PSE	AWEC & TEP	CenturyLink	Public Counsel	Staff Response
General	PSE: Recommends that the commission adopt the rule staff initially proposed to establish limited rate proceedings to promote certainty and efficiency in the rate-making process.				Staff disagrees and adheres to its previously stated position that such a rule would be premature at this time. In addition, the commission could not adopt this rule at this point in the rule-making process consistent with APA requirements.
Commenter acronyms	PPL - Pacific Power & Light Company PSE - Puget Sound Energy	AWEC - Alliance for Western Energy Consumers TEP - The Energy Project			

**Appendix B
Revised Rules**

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-500 General rate proceedings—Statement of policy. (1) **Scope of this subpart.** This subpart explains the special requirements for certain ~~((rate increase))~~ filings to change rates charged by electric, natural gas, pipeline, telecommunications, and water companies, low-level radioactive waste sites, ~~((and))~~ solid waste collection companies, and commercial ferries.

(2) **Inconsistencies with subpart A requirements.** If there is any inconsistency between the requirements in subpart B of these rules and those in subpart A, the requirements in subpart B control.

(3) **Purpose of special rules.** The special requirements in subpart B are designed to standardize presentations, clarify issues, and speed and simplify processing of general rate proceedings.

(4) ~~((Summary rejection for))~~ **Failure to comply.** The commission, pursuant to WAC 480-07-141, may ~~((summarily))~~ reject, or require the company to revise, any filing ~~((for))~~ to initiate a general rate proceeding that does not conform to the requirements of subpart B of these rules. ~~((#))~~ The commission ((summarily rejects a filing for a general rate, it)) will provide a written statement of its reasons ((and will provide an opportunity for the case to be refiled in conformance with these rules)) if it rejects a filing. The company may revise or refile a filing that remedies the noncompliance the commission has identified and otherwise fully complies with the rules consistent with the requirements in WAC 480-07-141(2), which governs the date on which the commission considers a filing to have been made.

(5) **Less than statutory notice.** The commission may grant requests to alter tariffs on less than statutory notice for good cause shown, in accordance with RCW 80.28.060 ~~((and))~~ or 81.28.050. A company that seeks to implement general rate proceeding tariff changes on less than statutory notice must include with its filing a complete explanation of the reasons that support such treatment.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-505 General rate proceedings—Definition—Tariff suspension. (1) ~~((Rate))~~ **Filings that ((are considered)) initiate general rate proceedings.** ~~((A general rate proceeding filing is))~~ Except as otherwise provided in this rule or RCW 80.04.130 (2)(a) (governing rate decreases for telecommunications companies), the commission will initiate a general rate proceeding in response to a filing by any ((regulated)) public service company ((specified)) identified in WAC 480-07-500 ((for an increase in)) requesting to change its rates if that filing meets any of the following criteria:

(a) The ~~((amount requested))~~ rates a company requests would ((increase)) alter its gross annual revenue ((of the company)) from activities ((regulated by)) the commission regulates by three percent or more.

(b) Tariffs would be restructured such that the gross revenue provided by any customer class would increase by three percent or more.

(c) The company requests a change in its authorized rate of return on common equity or a change in its capital structure.

(d) The company is a solid waste collection company regulated under chapter 81.77 RCW ~~((, except for filings specified under subsection (3)(a) of this section)).~~

(2) ~~((Rate)) Filings under Title 80 RCW that ((are not considered)) will not initiate general rate proceedings.~~ The commission generally will not initiate general rate proceedings in response to the following ~~((proceedings are not considered general rate increases)) filings,~~ even though the revenue ~~((requested may exceed)) the company requests may vary by three percent ((of)) or more from the company's current gross annual revenue from Washington regulated operations:~~

(a) Periodic rate adjustments ~~the commission has generally authorized~~ for electric and natural gas companies ~~((that may be authorized by the commission))~~ (e.g., power cost adjustments ~~((and)),~~ purchased gas cost adjustments, or decoupling adjustments)~~((:));~~

(b) Emergency or other ~~((short notice increases caused by disaster or weather-related conditions)) rate increases a company requests on short notice as a result of disasters, adverse weather, or other causes beyond the company's control that unexpectedly and substantially ((increasing)) increase a public service company's expenses((:)); or~~

(c) Rate ~~((increases)) changes~~ designed to recover ~~((government-imposed increases in)) only the costs a company incurs to comply with government actions that directly impact the company's costs ((of doing business such as)) to provide regulated service (e.g., changes ~~((in))~~ to tax laws or ~~((ordinances)) local fees) or to comply with federal or state rules concerning the level of rates for telecommunications companies.~~~~

~~((d)) Other increases designed to recover increased expenses arising on short notice and beyond a public service company's control.))~~

(3) ~~((Rate)) Filings under chapter 81.77 RCW that ((are)) will not ((considered)) initiate general rate proceedings.~~ The ~~((following filings are not considered)) commission generally will not initiate~~ general rate proceedings ~~((for)) in response to the following filings by solid waste collection companies regulated under chapter 81.77 RCW even though the request may meet one or more criteria identifying general rate proceedings:~~

(a) Filings by companies:

(i) That provide ~~((neither traditional residential or commercial solid waste operations. This category includes)) specialized ((carriers generally)) hauling services restricted to certain specific waste products ((for)) that are limited to specific customers ((and carriers providing)); or~~

(ii) That provide only on-call or nonscheduled service (i.e., ~~((B)) Class C ((B)) companies, as defined in WAC 480-70-041).~~

(b) ~~((Disposal fee pass-through charges for drop-box service, provided there are no affiliated interest relationships.~~

(c) Filings for collection of per-customer pass-through surcharges and taxes imposed by the jurisdictional local government based on the current year customer count either as a specified dollar amount or percentage fee amount.) Filings seeking only to pass through a change in fees unilaterally established and imposed by governmental or unaffiliated private entities, including disposal, recycling, yard waste, or processing fees, or to pass through changes to fees charged by affiliated entities if the public service company demonstrates that the total cost of transfer, transport, and fees at the

affiliate's facilities is equal to or lower than other reasonable and currently available alternatives;

(c) Filings for rate changes designed to recover only the costs a company incurs to comply with government actions that directly impact the company's costs to provide regulated service (e.g., changes to state or local fees, charges, or taxes directly related to the collection or disposal of solid waste);

(d) Filings ~~((by existing solid waste companies for the implementation of)) implementing~~ new solid waste collection programs; or

(e) Filings for periodic rate adjustments through a cost adjustment mechanism the commission has generally authorized for solid waste collection companies (e.g., fuel or recycling commodity adjustments).

(4) **Commission discretion.** The commission retains discretion to determine whether to initiate a general rate proceeding in response to any filing described in this section or to convert any rate proceeding to a general rate proceeding, following notice and an opportunity to comment, if the commission finds that such action is consistent with the public interest. The commission may require that any filing or proposal by a ((regulated)) public service company to ((increase)) change rates for any customer class, or to restructure rates, ((is)) be subject to the procedures and protections ((of)) in subpart B of these rules.

(5) **Suspension of tariffs.** The commission may take action at a regularly scheduled open public meeting to suspend the tariff sheets included in any filing that seeks to change rates. A company may waive its right to commission consideration of the filing at an open meeting and request immediate suspension of the tariffs, either in the cover letter accompanying the filing or in a subsequent document. If commission staff confirms that the filing is complete and complies with the applicable rules in subpart B of these rules, the commission may enter a complaint and order suspending the tariffs without further process. The company and statutory parties may engage in discovery pursuant to WAC 480-07-400 through 480-07-415 after the commission issues a notice of prehearing conference prior to the commission entering a prehearing conference order.

AMENDATORY SECTION (Amending WSR 08-18-012, filed 8/22/08, effective 9/22/08)

WAC 480-07-510 General rate proceeding((s)) filings—Electric, natural gas, pipeline, and Class A telecommunications companies. General rate proceeding filings ~~((for)) by~~ electric, natural gas, pipeline, and Class A telecommunications companies as defined in WAC 480-120-034 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. 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.))~~ The company and all parties to an adjudication in a general rate proceeding must file all required documents in

electronic form consistent with the requirements in WAC 480-07-140 and by the next business day must file five paper copies of all testimony and exhibits unless the commission establishes a different number. If an exhibit is a database, spreadsheet, or model, the paper copy of that exhibit may simply reference or describe its contents if printing the entirety of the database, spreadsheet, or model would result in a document exceeding five pages and would render the data, spreadsheet cells, or model unusable. The party, however, must submit a complete electronic version of the database, spreadsheet, or model, with all information, formulae, and functionality intact, as part of the party's electronic filing.

(1) **Testimony and exhibits.** ~~The ((company must file with the commission nineteen paper copies of))~~ company's initial filing and any supplemental filings the commission authorizes must include 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))~~ initial filing on the public counsel unit of the Washington state attorney general's office at the time ((of) the company makes the filing with the commission ((in any)) if the proceeding is the type in which public counsel ((will appear)) generally appears or has appeared in the past. The ((utility)) filing must ((provide an exhibit that includes)) include a results-of-operations statement showing test year actual results and ~~((the))~~ any restating and pro forma adjustments in columnar format ((supporting its)) that support the company's general rate request. The ((utility must also show)) company must identify each restating and pro forma adjustment and ~~((its))~~ the effect of that adjustment on the ((results of)) company's operations and revenue requirement. 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))~~ company's initial filing must include the company's proposed new or revised tariff sheets in legislative format (i.e., with strike-through to indicate ((any)) the material to be deleted or replaced and underlining to indicate ((any)) the 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 file with the commission))) consistent with the requirements in WAC 480-80-105, as well as copies of any tariff sheets that are referenced ((by)) in the new or amended tariff sheets.

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

~~(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 this subsection. Staff and each other party must 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 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, 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:~~

~~(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))~~ **Detailed support for proposals.**

~~(a) General.~~ The company must include in its initial testimony and exhibits, including those addressing accounting adjustments, sufficient detail, calculations, information, and descriptions necessary to meet its burden of proof. Any party responding to the company's proposal also must include in that party's testimony and exhibits sufficient detail, calculations, information, and descriptions necessary to support its filed case.

~~(b) Capital structure and rate of return.~~ The company must include in testimony and exhibits a detailed ((portrayal)) description of the development of any capital structure and rate of return proposals ((and all supporting work papers in the format described in this subsection.

~~(e))~~ Any other party that files testimony or exhibits that propose revisions to the company's current capital structure or authorized rate of return also must provide similar detailed information in testimony and exhibits supporting its proposal.

~~(c) Restating and pro forma adjustments.~~ ((Parties must provide work papers that contain)) Each party that proposes restating or pro forma adjustments must include in its testimony and exhibits a detailed portrayal of the restating ((actual)) and pro forma adjustments ((that the company)) the party uses to support its ((filing or that another party uses to support its litigation)) proposal or position((, specifying)). That portrayal must specify all relevant assumptions((, and including)) and include 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) on which the party relies. Testimony and exhibits 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)), as well as the derivation of all interstate and multiservice allocation factors ((must be provided in the work papers)).

(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 of operations 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)) the commission accepts for determining rates. Restating adjustments must be calculated based on the unadjusted test year operating results, not on another party's adjustments. The commission may refuse to consider any adjustment that is not calculated consistent with this requirement. Nonexclusive examples of restating ((actual)) adjustments are adjustments ((to)) that:~~

~~(A) Remove prior period amounts((to));~~

~~(B) Eliminate below-the-line items that were recorded as operating expenses in error((to));~~

~~(C) Adjust from book estimates to actual amounts((and to));~~

~~(D) Annualize ongoing costs that the company began to incur part way through the test year;~~

~~(E) Normalize weather or hydro conditions; or~~

~~(F) 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 ((work papers)) company and any other party filing testimony and exhibits proposing pro forma adjustments must identify dollar values and underlying reasons for each proposed pro forma adjustment. Pro forma adjustments must be calculated based on the restated operating results. Pro forma fixed and variable power costs, net of power sales, may be calculated directly based either on test year normalized demand and energy load, or on the future rate year demand and energy load factored back to test year loads.~~

~~((iii) If a party proposes to calculate an adjustment in a manner different than the method the commission most recently accepted or authorized for the company, the party must also include in testimony and exhibits the rationale for, and documents that demonstrate, how that adjustment would be calculated under the methodology previously accepted by the commission and must explain the reason for the proposed change. Commission approval of a settlement does not constitute commission acceptance of any underlying methodol-~~

~~ogy unless the commission so states in the order approving the settlement.~~

~~((f) "Revenue sources. The company must include in testimony and exhibits a detailed portrayal of revenue from regulated sources, by source, during the test year and ((a parallel portrayal, by source, of) the changes ((in)) that would result in those revenues ((produced by the filing)) if the commission approves the company's request, including an explanation of how the resulting changes were derived.~~

~~((g) "Achievement of rate of return. The company must demonstrate in testimony and exhibits why the company has not achieved its authorized rate of return((, an explanation of why it has not)) and what actions the company ((is doing)) has taken prior to and during the test year to improve its earnings in addition to its request for increased rates. If the company has not taken any such actions, the company must explain why it has not.~~

~~((h) "Rate base and results of operations. The company's testimony and exhibits must include a representation of the company's actual rate base and results of operations ((of the company)) during the test period, calculated in the same manner ((used by)) the commission used to calculate the ((company's)) revenue requirement in the ((commission's)) final order in the company's most recent ((order granting the company a) general rate ((increase)) proceeding.~~

~~((i) "Supplementation of) (g) Affiliate and subsidiary transactions. The company's testimony and exhibits must supplement, as necessary, the annual affiliate and subsidiary transaction reports ((as provided)) required in rules governing reporting ((requirements for each)) for the applicable industry((, as necessary,)) to include all such transactions during the test period. The company ((is required to)) must identify all affiliate and subsidiary transactions that materially affect the proposed rates. The company must support the allocation method the company used to distribute common costs between regulated and nonregulated affiliated entities and the dollar amount of those costs.~~

~~((j) "Electronic documents and confidentiality. Electronic files must be fully functional and include all formulas and linked spreadsheet files. Electronic files that support exhibits must use logical file paths, as necessary, by witness and must use identifying file names consistent with the naming requirements in WAC 480-07-140. A party may file a document with locked, hidden, or password protected cells only if such restricted access is necessary to protect the information within the cells that is not subject to public disclosure. The party must identify each locked, hidden, or password protected cell and must designate such cells, as well as any other information the party contends is confidential under RCW 80.04.095 or otherwise protected from public disclosure, in compliance with the requirements in WAC 480-07-160 and any applicable protective order. The party must make such information accessible to all persons who have signed the protective order or are otherwise entitled to access the information including, but not necessarily limited to, commission staff and public counsel. Redacted versions of models or spreadsheets that contain information that is designated as confidential or highly confidential or otherwise protected from public disclosure must be in .pdf format (using Adobe~~

Acrobat or comparable software) and must mask the information protected from public disclosure as required in WAC 480-07-160.

(i) Referenced documents. If a party's testimony or exhibits refer to a document including, but not limited to, a report, study, analysis, survey, article, or court or agency decision, the party's testimony and exhibits must include that document except as provided below:

(i) A party may include an official citation or internet Uniform Resource Locator (URL) to a commission order or to a court opinion or other state or federal agency decision, rather than the document itself, if that decision is reported in a generally accepted publication (e.g., Washington Reports Second (Wn.2d), Public Utility Reports (P.U.R.), etc.) or if the document is readily available on the web site of the agency that entered that decision:

(ii) A party may include only the relevant excerpts of a voluminous document if the party also provides a publicly accessible internet URL to the entire document or describes the omitted portions of the document and their content and makes those portions available to the other parties and the commission upon request; and

(iii) A party is not required to file or distribute materials subject to third-party copyright protection but must describe those materials and their content and make them available for inspection upon request by the parties and the commission.

(4) **Work papers.**

(a) General. Work papers are documents that support the technical aspects of a party's testimony and exhibits. Work papers may include, but are not limited to, calculations, data analysis and raw data. Work papers are not a part of a party's direct case. Within five business days after each party files and serves its testimony and exhibits, the party also must provide to all other parties the work papers on which each of its witnesses relied when preparing testimony and exhibits. All work papers must comply with the requirements of this subsection.

(b) Organization. Work papers must be plainly identified and well organized, with different documents or sections separated by or into tabs, and must include an index. All work papers must be cross-referenced and include a description of the cross-referencing methodology.

(c) Any work papers provided to other parties must comply with requirements governing electronic documents and confidentiality in subsection (3)(h) and referenced documents in subsection (3)(i) of this section.

(d) Filing designated work papers with the commission. If the commission determines that it needs information in addition to a party's testimony and exhibits, the commission may issue a bench request for designated portions of that party's work papers. The commission will receive into evidence the work papers a party provides in response to a bench request unless the commission rejects that response, either in response to an objection or on the commission's own motion, as provided in WAC 480-07-405 (7)(b). The commission will not rely on any other work papers as the basis for any finding of fact or conclusion of law in the proceeding unless the commission formally admits such work papers into the evidentiary record.

(5) **Summary document.**

(a) Contents. The company must ~~((file with the commission a summary))~~ include in its initial filing a document that ~~((briefly states the following))~~ summarizes the information in this subsection (5)(a) on an annualized basis, if applicable ~~((In presenting the following information, the company))~~, and 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))~~ (i) The date and amount of the ~~((latest prior))~~ last general rate ~~((increase authorized by))~~ change the commission ~~((s))~~ authorized for the company and the revenue the company realized from that ~~((authorized increase in))~~ change during the test period ~~((s))~~ based on the company's test period units of ~~((revenue-~~

~~((b))~~ sale (e.g., kilowatt hours, therms, etc.);

(ii) Total revenues ~~((a))~~ the company is realizing at its present rates and the total revenues the company would realize at the requested rates ~~((-~~

~~((c))~~);

(iii) Requested revenue change in percentage, in total ~~((s))~~ and by major customer class ~~((-~~

~~((d))~~);

(iv) Requested revenue change in dollars, in total ~~((s))~~ and by major customer class ~~((-~~

~~((e))~~ Requested rate change in dollars, per average);

(v) The representative effect of the request in dollars for the average monthly use per customer, by customer class ~~((s))~~ or other similar meaningful representation, ~~((if necessary to depict representative effect of the request. The summary document must also state))~~ including, but not limited to, the effect of the proposed rate ~~((increase))~~ change in dollars per month on ~~((typical))~~ residential customers by usage categories ~~((-~~

~~((f))~~);

(vi) Most current customer count, by major customer class ~~((-~~

~~((g))~~);

(vii) Current authorized overall rate of return and authorized rate of return on common equity ~~((-~~

~~((h))~~);

(viii) Actual rate of return and actual rate of return on common equity for the test period;

(ix) Requested overall rate of return and requested rate of return on common equity, and the method or methods used to calculate the requested rates of return ~~((on common equity-~~

~~((i))~~);

(x) Requested capital structure ~~((-~~

~~((j))~~);

(xi) Requested net operating income ~~((-~~

~~((k))~~);

(xii) Requested rate base and method of calculation, or equivalent ~~((-~~

~~((l))~~ Requested); and

(xiii) Revenue effect of any requested attrition allowance ~~((-if any is requested))~~.

~~((5))~~ (b) Required service ~~((of summary document))~~.

(i) Persons to receive service. The company must serve the summary document on ~~((public counsel and mail the summary document 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))~~ (A) The public counsel unit of the Washington state attorney general's office;

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

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

~~((c))~~ (D) All persons who have informed the company in writing that they wish to be provided with the summary document required under this section.

(ii) Cover letter. The company must enclose a cover letter with the summary document stating that the company's 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))~~, subject to any restrictions on information that is protected from public disclosure, if the company is not serving them along with the summary document.

(iii) Limitation. This ~~((provision))~~ service requirement does not create a right to service or notice ((it)) of future filings in the proceeding to the persons named to receive the summary. Any person other than commission staff and public counsel who wishes to be served documents subsequently filed in the general rate proceeding must petition to intervene in that proceeding.

(6) Cost studies. The ~~((company must file with the commission))~~ company's initial filing must: (a) Include any cost studies ((it)) the company performed or relied on to prepare its ((filing)) proposals; (b) identify all cost studies conducted in the last five years for any of the company's services((-)); and (c) describe the methodology the company used in all such cost studies. If the cost studies are in the form of a model, the company must provide a copy of, or reasonable access to, the model that will enable the commission to verify and modify the model's inputs and assumptions.

(7) ((Other)) Additional documents. The ~~((company must file with the commission its))~~ company's initial filing must include the following documents or an internet URL for each of these documents:

(a) The company's most recent annual report to shareholders, if any, and any subsequent quarterly reports to shareholders;

(b) The company's most recent FERC Form 1 and FERC Form 2((-if applicable)) for electric and natural gas companies; and

(c) 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)) rate change request.

AMENDATORY SECTION (Amending WSR 06-16-053, filed 7/27/06, effective 8/27/06)

WAC 480-07-520 General rate proceeding((s)) filings—Solid waste collection companies and commercial ferries. General rate ~~((increase))~~ proceeding filings by ((class A and B haulers as defined in WAC 480-70-041)) solid waste collection companies or commercial ferries must include the information described in this rule. ~~((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 file all required documents in electronic form consistent with the requirements in WAC 480-07-140. A solid waste collection company may file a document with locked, hidden, or password protected cells only if such restricted access is necessary to protect the information within the cells that is not subject to public disclosure. The solid waste collection company must identify each locked, hidden, or password protected cell and must designate such cells, as well as any other information the party contends is confidential under RCW 81.77.210 or otherwise protected from disclosure, in compliance with the requirements in WAC 480-07-160 and any applicable protective order. The solid waste collection company must make such information accessible to all persons who have signed the protective order or are otherwise entitled to access the information including, but not necessarily limited to, commission staff. A commercial ferry company may not file a document with locked, hidden, or password protected cells.

(1) Proposed tariff. The company's initial filing must include the company's proposed tariff sheets ((may be filed in electronic form supplemented by one paper copy. The proposed tariff sheets should)). Sections that are narrative, e.g., that contain rules or notes, must be in legislative format, i.e., with strike-through to indicate any material to be deleted or replaced and underlining to indicate any material to be inserted. ((The electronic copy must be submitted in the format identified in WAC 480-07-140(6)) Changes to tariff sections that are tabular, e.g., charts containing rates and charges, must be marked with appropriate tariff symbols consistent with the requirements in WAC 480-70-286.

(2) Local government ordinances and customer notices. The company's initial filing must include a copy of every local government ordinance related to the request in compliance with WAC 480-70-326, and a copy of the customer notices issued in compliance with the provisions of WAC 480-70-271.

(3) Transmittal letter. The company's initial filing must include a transmittal letter ((prepared)) in compliance with ((the provisions of)) WAC 480-70-326.

(4) Work papers. ~~((One paper and one electronic copy of all supporting work papers for the test period, which is the most recent or most appropriate consecutive twelve-month period for which financial data are available. The electronic copy must be submitted in the format identified in WAC 480-07-140(6).))~~ The company's initial filing must include all work papers that support the company's rate change request. Work papers must include the following:

(a) A detailed pro forma income statement separated ((among solid waste, single family residential recycling, multifamily recycling, and yard waste)) by customer class, with

restating (~~(actual)~~) and pro forma adjustments, reflected in separate columns, including all supporting calculations and documentation for all adjustments.

(i) (~~(=)~~) Restating (~~(actual)~~) adjustments (~~(=)~~) adjust the booked operating results for any defects or infirmities in actual recorded results of operations 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)~~) the commission accepts for determining rates (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.

(ii) (~~(=)~~) Pro forma adjustments (~~(=)~~) give effect for the test period to all known and measurable changes that are not offset by other factors. The company's initial filing must identify dollar values and underlying reasons for each proposed pro forma adjustment.

(iii) Restating and pro forma adjustments must be calculated as the variance from the booked operating results.

(b) A calculation of the (~~(revenue impact of proposed tariff revisions)~~) total revenues the company is realizing at its present rates and the total revenues the company would realize at the requested rates.

(c) An income statement listing all revenue and expense accounts by month or a supporting general ledger for the test period.

(d) If nonregulated revenue represents more than ten percent of total company test period revenue, a detailed separation of all revenue and expenses between regulated and non-regulated operations.

(e) A detailed list of all nonregulated operations (~~(including the rates charged for the services rendered)~~). The company must provide copies of all contracts (must be provided on) upon request.

(f) A detailed ((price out information that)) study that reconciles service pickups or passenger counts, as applicable, to the test year revenue by tariff item or service. The computed revenue must reconcile ((s)) within five percent ((without adjustment, to the)) of test period ((booked)) revenue ((including the test period customer count by tariff item)).

(g) A consolidated balance sheet (~~(including the percentage of equity and the percentage)~~) for the company with supporting documentation including, but not limited to, detailed cost of debt ((s)) and ((the cost of that debt by component)) a list of all real property and vehicle leases to which the company is a party.

(h) A detailed calculation of net investment in plant and equipment and the net book value of used and useful assets at the end of the test period.

(i) A detailed depreciation schedule listing all used and useful assets (~~(held by))~~ the regulated entity that operates under the tariff for which the company files the rate request held during the test period, including the date of purchase, the cost at purchase, the depreciable life, the salvage value, depreciation expense, and accumulated depreciation expense at the end of the test period.

~~((i) Computed average investment. Average investment is the net book value of allowable assets at the beginning of the test period plus the net book value of allowable assets at the end of the test period, divided by two. Investor supplied working capital may be included, provided a work sheet is submitted detailing the calculations.))~~

(j) Information about every transaction with an affiliated interest or subsidiary that directly or indirectly affects the proposed rates (~~(This must include)~~), including a full description of the relationship, the terms and amount of the transaction, the length of time the relationship has been ongoing, and an income statement and balance sheet for every affiliated entity.

(5) **Annual report.** The company's initial filing must include the company's most recent consolidated annual report to shareholders, if any.

(6) Interim rates. The commission may grant interim rates subject to refund when considering proposed changes to tariffs requested by solid waste collection companies under RCW 81.28.050. Interim rates subject to refund granted pursuant to this section shall be limited to those companies that demonstrate, after a brief adjudicative proceeding or limited hearing, an emergency, undue hardship, or inequity. If a solid waste collection company requests interim rate relief, the commission will consider the request on an expedited schedule.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-530 General rate proceeding ((s)) filings—Water companies and Class B telecommunications companies. General rate ((increase)) proceeding filings by water companies and Class B telecommunication companies as defined in WAC 480-120-034 must include the information described in this section. ((The commission may summarily 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 file all required documents in electronic form consistent with the requirements in WAC 480-07-140. A party may file a document with locked, hidden, or password protected cells only if such restricted access is necessary to protect the information within the cells from public disclosure. The party must identify each locked, hidden, or password protected cell and must designate such cells, as well as any other information the party contends is confidential under RCW 80.04.095 or otherwise protected from public disclosure, in compliance with the requirements in WAC 480-07-160 and any applicable protective order. The party must make such information accessible to all persons who have signed the protective order or are otherwise entitled to access the information including, but not necessarily limited to, commission staff. The filing must include the following:

(1) **Cover letter.** The cover letter must:

(a) Provide a description of the filing ((s)) and the requested (~~(action,))~~ rate change in understandable terms;

(i) Explain any technical terms ((are acceptable, but descriptions must)) and otherwise use common terms to

describe the filing so the public can easily understand ~~(the)~~ its impact ~~(of the filing)~~;

(ii) Define any acronyms ~~(, if used, must be defined)~~ before they are used in the text of the letter;

(b) State why the ~~(filing is being made)~~ company is requesting a rate change (e.g., ~~(increased)~~) to recover higher costs for water testing;

(c) Describe each service that ~~(is impacted)~~ the filing impacts and the dollar and percentage change for each service as well as the net impact of all changes on the company's total regulated revenue.

(2) **Tariff.** ~~(The proposed tariff must include explanatory markings.)~~ The company's initial filing must include the company's proposed tariff sheets. Sections that are narrative, e.g., that contain rules or notes, must be in legislative format, i.e., with strike-through to indicate any material to be deleted or replaced and underlining to indicate any material to be inserted. Changes to tariff sections that are tabular, e.g., charts containing rates and charges, must be marked with appropriate tariff symbols consistent with the requirements in WAC 480-80-105.

(3) **Customer notice.** A copy of the notice the company mailed to customers.

(4) **Work papers.** ~~(The supporting)~~ Work papers ~~(for the test period including)~~ must support the company's rate change request and, at a minimum, must include the following:

(a) A calculation of the ~~(revenue impact of proposed)~~ total revenues the company is realizing at its present rates and the total revenues the company would realize at the requested rates by each class affected(~~(s)~~);

(b) A balance sheet and statement of revenues and expenses(~~(s)~~);

(c) A depreciation schedule(~~(s)~~);

(d) A schedule showing any adjustments proposed ~~(including a schedule showing adjustments)~~ to the statement of revenues and expenses, including any restating adjustments ~~(and/or)~~ or pro forma adjustments ~~(including)~~, and the effect of any adjustments on the proposed rates(~~(s)~~);

(e) ~~(Work papers that explain both)~~ An explanation of all restating adjustments and pro forma adjustments that the company proposes, specifying all relevant assumptions, and including specific references to charts of accounts, financial reports, studies, and all similar records on which the company relied ~~(on by the company)~~ in preparing its initial filing ~~(, and its supporting testimony and exhibits)~~.

(i) ~~(⁽²⁾)~~ Restating ~~(⁽²⁾)~~ adjustments ~~(⁽²⁾)~~ adjust the booked operating results for any defects or infirmities in actual recorded results, which can distort test period earnings. Restating ~~(⁽²⁾)~~ adjustments are also used to adjust from an as-recorded basis to a basis that ~~(is acceptable for rate making)~~ the commission accepts for determining rates. Examples of restating ~~(⁽²⁾)~~ 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.

(ii) ~~(⁽²⁾)~~ Pro forma adjustments ~~(⁽²⁾)~~ 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.

(ii) Restating and pro forma adjustments must be calculated as the variance from the booked operating results.

(f) Usage or other statistics verifying test year revenues and proposed revenues.

(g) For water companies, the public water system identification number ~~(assigned by)~~ the Washington department of health has assigned for each system that the new rates will affect.

(h) A schedule showing separation of revenues and expenses between regulated and nonregulated operations.

(i) Information about every transaction with an affiliated interest or subsidiary that directly or indirectly affects the proposed rates ~~(. This must include.)~~, including a full description of the relationship, the terms and amount of the transaction, the length of time the relationship has been ongoing, and an income statement and balance sheet for every affiliated entity.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-540 General rate proceedings—Burden of proof. Public service companies bear the burden of proof in the general rate proceedings ~~(that propose changes that would increase any rate, charge, rental, or toll, as provided)~~ described in RCW 80.04.130 or 81.04.130. The burden of proof includes the burden of going forward with evidence and the burden of persuasion. The commission will consider the company's ~~(prefiled evidence)~~ initial filing and any supplemental filings the commission authorized to ~~(its)~~ the company's full direct case in support of its rate ~~(filing)~~ change request for purposes of deciding any prehearing motion to dismiss under WAC 480-07-380.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 480-07-550 General rate proceedings—Compliance filings and other resulting filings.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-610 Brief adjudicative proceedings. (1) When permitted. The commission may use brief adjudicative proceedings under RCW 34.05.482 when ~~(doing so is)~~;

(a) Such proceedings are consistent with other provisions of law(~~(, when)~~);

(b) Protection of the public interest does not require the commission to give notice and an opportunity to participate to persons other than the parties(~~(, and when)~~);

(c) Discovery and prefiled written testimony are not necessary to provide the commission with sufficient evidence to render a determination; and

(d) The commission believes that the issues presented can best be resolved through a brief adjudication ((is)) consistent with the public interest. In exercising its discretion to conduct a brief adjudication, the commission will consider the preferences of the parties, the possible benefits to be gained from a brief adjudication, and the nature of issues involved.

(2) Matters suitable for brief adjudication. Categories of proceedings suitable for brief adjudication include, but are not necessarily limited to:

(a) ~~((Review of denials or partial denials of))~~ Challenges to commission notices of intent to deny, in whole or in part, applications for authority that are not protested((-));

(b) Contested applications for temporary authority((-);

(c) Proceedings that could lead to suspension, cancellation, or revision of authority for failure to maintain tariffs, pay fees, or file required documents((-);

(d) Formal complaints ~~((in which))~~ that do not require notice and an opportunity to participate ~~((in the proceeding need not be given))~~ to persons other than the parties((-) and the commission can best resolve in a brief adjudication including, but not limited to, complaints the commission initiates to determine whether a company is providing service subject to commission regulation without commission authority;

(e) ~~((Petitions for mitigation of))~~ Contested penalty assessments under RCW 80.04.405 ~~((and)), 81.04.405, ((including any challenge to the validity of a penalty assessment or the existence of an underlying violation-)) or 19.122.-150, or consideration of requests for mitigation of the penalty;~~

(f) Applications for authority to provide auto transportation service to which a company properly objects; and

(g) Requests by solid waste collection companies pursuant to WAC 480-07-520(6) for interim rates subject to refund.

(3) ~~((How to request))~~ Initiating a brief adjudication. The director of the administrative law division will determine whether the commission will initiate a brief adjudicative proceeding.

(a) The commission may set a matter for brief adjudication on its own initiative.

(b) Except as otherwise provided in this section, any person may ~~((apply for))~~ file a petition requesting that the commission commence a brief adjudicative proceeding ~~((by filing with the secretary of the commission a letter stating))~~.

(i) The petition must describe the issues the petitioner seeks to have the commission resolve, the petitioner's position on those issues, and the reasons why a brief ~~((adjudication should be used and a certificate of service upon))~~ adjudicative proceeding would be appropriate to resolve those issues. The petitioner must serve the petition on all other identified or necessary parties~~((The commission may set a matter for brief adjudication on its own motion when doing so will not prejudice the rights of any person. Each applicant for a brief adjudicative proceeding must submit a written explanation of its view of the issues along with its application. Parties may file written submissions as provided in the commission's notice that it will conduct the brief adjudicative~~

~~proceeding))~~ and must file a certificate of service with the petition.

(ii) Any identified or necessary party that opposes the petition may file a response within ten days after service of the petition stating the reasons why a brief adjudicative proceeding would not be appropriate to resolve the issues identified in the petition.

(iii) If the commission initiates a brief adjudication, it will issue a notice of the time and place for the proceeding. A decision denying the petition will be in writing, and the petitioner may seek commission review of that decision pursuant to the procedure for requesting review of initial orders in WAC 480-07-825.

(c) Any person requesting a hearing or commission review of orders or letters suspending or canceling a permit for failure to maintain evidence of required insurance coverage or other specified circumstances must submit that request in writing within fourteen days after the commission posts the order or letter on its web site. The director of the administrative law division will determine whether the commission will initiate a brief adjudication in response to the request or if an administrative law judge will enter a decision based on the information provided in the request and commission staff's response. The requestor may seek commission review of any such decision pursuant to the procedure for requesting review of initial orders in WAC 480-07-825.

(4) Assignment of presiding officer. If the commission ~~((grants the request))~~ sets a matter for a brief adjudication, ~~((it))~~ the commission will designate a person to serve as a presiding officer consistent with the requirements of RCW 34.05.485.

(5) ~~((Requesting and presenting oral comments.~~

(a) ~~Request.~~ A party to a brief adjudicative proceeding may request to make an oral statement in the application or in a response to the application. The presiding officer may grant a request to make an oral statement or may ask the parties to make oral statements if the presiding officer believes an oral statement will help in reaching a decision.

~~((b))~~ Hearing.

(a) Notice and nature of proceeding. The commission will serve ~~((upon))~~ on the parties a notice of the time and place for the brief adjudicative proceeding ~~((and the name and telephone number of the designated presiding officer))~~ at least seven days before the proceeding. That notice or a subsequent procedural order will specify how the commission will conduct the proceeding. The parties may offer written exhibits for inclusion in the record and may make oral statements in support of their positions. The presiding officer also may permit parties to present one or more witnesses to testify in support of their positions subject to cross-examination by the other party.

(b) Exhibits. Each party must file with the commission and serve on the other parties all exhibits the party proposes to introduce into the record. The presiding officer may refuse to admit into the evidentiary record any exhibits not provided in advance of the hearing. The notice of brief adjudicative proceeding or subsequent procedural order will establish the deadlines for filing these exhibits.

(i) Exhibit numbers. Parties must mark all exhibits in the upper right-hand corner of the first page prior to submission as follows:

(A) State "Exh." followed by the initials of the witness who will sponsor the exhibit or the name of the party if no witness will sponsor the exhibit.

(B) Place a hyphen after the witness's initials or party name and insert the number of the exhibit. For example, the first exhibit commission staff designates either would be marked "Exh. Staff-1" or if sponsored by staff witness John Q. Witness, would be marked "Exh. JQW-1"; the second exhibit would be marked either "Exh. Staff-2" or "Exh. JQW-2," etc.

(C) Place the capital letter "C" immediately after the number of the exhibit if the exhibit includes information designated as confidential under WAC 480-07-160. Place the capital letters "HC" immediately after the number of the exhibit if the exhibit includes information designated as highly confidential under WAC 480-07-160 and a protective order.

(ii) Format. Any exhibit in the form of a spreadsheet that displays results of calculations based on formulas must be filed and served electronically in its native Excel format in compliance with WAC 480-07-140 (6)(a)(ii). All other exhibits must be filed and served electronically in searchable .pdf (Adobe Acrobat or comparable software) format.

(iii) Organization. Each exhibit must be a separate document (i.e., multiple exhibits must not be scanned into a single document), and each document must be labeled with the exhibit name. Any paper copies of the exhibits that the presiding officer requires must be organized into sets that are tabbed, labeled, and grouped by witness, if any.

(c) Exhibit and witness lists. Each party must file with the commission and serve on all parties a list of all exhibits the party intends to offer for admission into the record. If the presiding officer permits parties to present witness testimony, each party also must provide a list of all witnesses the party intends to present at the hearing and a brief summary of the testimony each witness will give. The notice of brief adjudicative proceeding or a subsequent procedural order will establish the deadline for filing exhibit and witness lists.

(d) Testimony. The presiding officer may refuse to permit a witness to testify if the witness is not on the witness list. The presiding officer also may refuse to hear proposed testimony if it would not be relevant to the issues to be addressed in the proceeding or would be cumulative of the testimony to be offered by another witness. The presiding officer may limit a witness's testimony to the subjects identified in the summary the party provides prior to the hearing.

(6) Initial order.

(a) The presiding officer may enter a decision orally and make ~~(an oral)~~ a brief statement of the reasons for the decision ~~((during the brief adjudication if the party affected is present at the proceeding))~~ at the conclusion of the hearing. The presiding officer will then enter an initial order more fully explaining that decision in writing within ten days after the date of the hearing.

(b) The presiding officer may take the matter under advisement at the conclusion of the hearing and enter a written initial order that addresses the issues raised ~~((by the appli-~~

ation)) in the proceeding within ten days after the date of the brief adjudication. The ~~((initial order will be served on the parties pursuant to WAC 480-07-150 (3) and (7)))~~ presiding officer may extend this deadline for good cause.

(7) Review of initial orders.

(a) Timing. Any party may ~~((file a written))~~ petition for review of an initial order ~~((in a brief adjudication))~~ within twenty-one days after service of the ~~((initial))~~ order ~~((and the commission will review the initial order))~~. The commission also may review an initial order on its own motion.

(b) Format for petition for review. The commission ~~((encourages written))~~ strongly prefers petitions for review to be in writing so parties will have the greatest opportunity to state reasons for their views, but the commission will accept oral petitions for review as authorized in RCW 34.05.488 and this rule. A ~~((written))~~ party's request for review of an initial order must ~~((contain))~~ identify the errors the party alleges in the order and must provide an explanation of the ~~((party's view of the matter, with a statement of))~~ reasons why the party contends that the initial order is incorrect ~~((, and a certificate of service. Oral petitions for review are permitted under RCW 34.05.488))~~. The petitioning party must serve its written petition on all parties when it submits the petition to the commission for filing. A party orally requesting review must make that request in the presence of all parties, the presiding officer, and a court reporter.

(c) Response. ~~((The commission encourages written responses.))~~ Any party may file and serve a written response to ~~((a))~~ an oral or written petition for review ~~((must be filed with the commission and served to the other parties))~~ within seven days after ~~((service of the petition for review, or on a schedule set by the presiding officer. The commission may hear orally any response to an oral petition for review))~~ the petitioning party makes its oral request for review or serves the written petition unless the commission establishes a different deadline.

(8) Final order on review. The commission may adopt, modify, or reject ~~((;))~~ the initial order or may remand the initial order for further proceedings ~~((consistent with the terms of its final order))~~. The final order on review will be in writing ~~((;))~~ and will include a brief statement of the reasons for the decision ~~((, and will be entered))~~. The commission will enter the final order within twenty days after the deadline for requesting review ~~((or of the request for review, whichever is later))~~ of the initial order. The order ~~((must))~~ will include a notice of any further available administrative review or, if none is available, a notice that judicial review may be available.

(9) ~~((Final))~~ Finality of initial order ~~((without review. If no party seeks review of the initial order, the commission may enter an order adopting)).~~ The initial order ~~((as its))~~ becomes the commission's final order by operation of law under either of the following conditions:

(a) No party timely seeks administrative review of the initial order, and the commission does not initiate review on its own motion; or

(b) The commission does not enter a final order in response to a petition for administrative review within twenty days after the deadline for requesting review, unless all par-

ties and the commission agree to waive the date by which the commission must enter a final order.

(10) **Record.** The record in a brief adjudicative proceeding consists of any exhibits the presiding officer admits into the record, the transcript of the hearing, and any other documents regarding the matter that ((were)) the presiding officer considered ((or prepared by the presiding officer)) for the brief adjudicative proceeding or ((by the reviewing officer for)) that the commission considered in any review of an initial order. The ((agency's)) commission's record need not constitute the exclusive basis for action, unless otherwise required by law.

AMENDATORY SECTION (Amending WSR 06-16-053, filed 7/27/06, effective 8/27/06)

WAC 480-07-620 Emergency adjudicative proceedings. (1) **When permitted.** The commission may conduct an emergency adjudicative proceeding pursuant to RCW 34.05.479 ((to suspend or cancel authority, to require that a dangerous condition be terminated or corrected, or to require immediate action)) in any situation involving an immediate danger to the public health, safety, or welfare requiring immediate commission action ((by the commission. Such situations include, but are not limited to:

(a) Inadequate service by a public service company when the inadequacy involves an immediate danger to the public health, safety, or welfare; and

(b) Violations of law, rule, or order related to public safety, when the violation involves an immediate danger to the public health, safety, or welfare)) within the commission's jurisdiction.

(2) **Complaint.** If time permits, the commission or a complainant must prepare a complaint and serve it on the respondent using a method that best provides actual notice of the adjudication. ((If a majority of the commissioners are not available to authorize a complaint, one commissioner or, if no commissioner is available, the secretary or executive director of the commission or an administrative law judge may authorize a complaint.))

(3) **Who presides.** The commissioners will sit as presiding officers, hear the matter, and enter an order~~((;))~~ if a majority of the commissioners are available. Any available commissioner will sit as presiding officer, hear the matter, and enter an initial order~~((;))~~ if a majority of the commissioners is not available. The ((supervisor)) director of the commission's administrative law ((judge function)) division will assign an administrative law judge either to sit as a presiding officer with the commissioner(s), or if no commissioner is available, to preside alone, hear the matter, and enter an initial order((; if no commissioner is available)).

(4) **Record and decision.** The official record will include any written submissions of the parties~~((;)), any testimony or oral comments by the parties((; if))~~ the presiding officer ((has allowed oral comments;)) allows, and any other documents regarding the matter that ((were considered or prepared by)) the commission considers. The ((agency's)) commission's record need not constitute the exclusive basis for action~~((;))~~ unless otherwise required by law.

(5) **Emergency order.** The commission will take only such action as is necessary to prevent or avoid the immediate danger to the public health, safety, or welfare that justifies use of emergency adjudication. The presiding officer will enter an emergency order as soon as practicable under the circumstances. The order will include a brief statement of findings of fact, conclusions of law, and justification for the determination of an immediate danger to the public health, safety, or welfare. The order is effective when entered. ((The commission will serve the order pursuant to WAC 480-07-150 (3) and (7).))

(6) **Post-order process.** After entering an emergency order under this section, the commission will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger to the public health, safety, or welfare, and will enter a final order.

(7) **Review or reconsideration of emergency order.** Any party to an emergency adjudicative proceeding may seek immediate review by the full commission in the case of any order entered by a single commissioner or by an administrative law judge. In the case of any order entered by a majority of the commissioners, any party may seek ((immediate)) reconsideration. If ((either)) a party requests review or reconsideration ((is requested)), the commission will establish appropriate process to complete its review or reconsideration within ten business days of the date of any petition for review or reconsideration. A party seeking ((immediate)) review or reconsideration is not automatically entitled to a stay of the emergency order.

AMENDATORY SECTION (Amending WSR 08-18-012, filed 8/22/08, effective 9/22/08)

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. ((§§)) Secs. 251 and 252.

(2) **Nature of the proceeding.** Arbitrations that the commission conducts pursuant to 47 U.S.C. ((§)) Sec. 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)) unit of the office of the Washington state 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. ((§)) Sec. 252 (b)(1), any party to the nego-

tiation 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 a party requests arbitration (~~(is requested)~~).

(b) *Filing.* Parties must file petitions for arbitration under ~~((section))~~ 47 U.S.C. Sec. 252 (b)(2) as provided for other petitions under WAC ~~((480-07-145))~~ 480-07-370(3), 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 petitioner files 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 local exchange carrier received 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))~~ that receipt;

(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))~~ petitioner requests be imposed;

(e) Recommend any information that the arbitrator should request from the parties pursuant to 47 U.S.C. ~~((§))~~ Sec. 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. ~~((§§))~~ Secs. 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 on which 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))~~ a response 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))~~ the respondent wishes within twenty-five days after the petitioner files the petition (~~(is filed)~~).

(b) *Filing.* ~~((Answers))~~ Responses to petitions for arbitration under ~~((section))~~ 47 U.S.C. Sec. 252 (b)(2) must be filed with the commission in the manner provided for ~~((answers))~~ responses to other petitions under WAC ~~((480-~~

~~07-145;))~~ 480-07-370(3) 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))~~ response and all accompanying documentation on the same day that the respondent files the response (~~(is filed)~~) with the commission.

(7) **Contents of ~~((answer))~~ response and required documentation.** ~~((An answer))~~ A response 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))~~ incumbent local exchange carrier 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))~~ respondent requests be imposed;

(e) Recommend any information that the arbitrator should request from the parties pursuant to 47 U.S.C. ~~((§))~~ Sec. 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 the petitioner 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. ~~((§§))~~ Secs. 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 on which the respondent relies ~~((on))~~ to support its positions or that it intends to introduce as exhibits at the hearing.

(8) **Verification.** The petition, ~~((answer))~~ response, 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))~~ responses, and any documents a party provides to the commission pursuant to a request under ~~((section))~~ 47 U.S.C. Sec. 252 (b)(4)(B) are subject to Washington's public disclosure laws, including chapter 42.56 RCW and RCW 80.04.095. Confidential information submitted with a petition for arbitration or ~~((answer))~~ response 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. ((§)) Sec. 252 (b)(4)(B). Parties may submit to the arbitrator any discovery requests to which a party has 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. ((§)) Sec. 252 (b)(4)(B) at any time.

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

(a) *Appointment.* The commission will appoint 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~~)) to act as arbitrator(s) ((~~when~~)) to resolve 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((~~s~~)) 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~~)) appointment 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 the arbitrator may not consult with 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 petitioner filed the petition for arbitration ((~~was filed~~)). The arbitrator's report satisfies the commission's responsibility to resolve the disputed issues under 47 U.S.C. ((§)) Sec. 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 WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-640 Telecommunications companies—Review and approval of interconnection agreements under the Telecommunications Act of 1996. (1) **Scope.** This rule implements the commission review and approval process provisions of ((~~section 252 of the Telecommunications Act of 1996;~~)) 47 U.S.C. ((§)) Sec. 252.

(2) **Commission review and approval of agreements** ((~~by the commission~~)).

(a) *Filing and service of agreements* ((~~for approval~~)).

(i) Negotiated agreements. Parties to a negotiated interconnection agreement must ((~~submit~~)) file a complete, signed copy of their agreement to the commission for approval under 47 U.S.C. ((§)) Sec. 252(e) within thirty days after they sign the agreement ((~~is signed~~)). The parties must include any appendices or attachments to the agreement ((~~must be included~~)). The request for approval must summarize the agreement's main provisions((~~The request for approval~~)) and must affirm that the agreement does not discriminate against nonparty carriers, is consistent with state and federal law, and is in the public interest. The commission will reject a request for approval that does not include all of the information required in this section but will allow it to be refiled when complete. The timelines established for commission review of requests for approval under 47 U.S.C. ((§)) Sec. 252 do not begin until a complete request is properly filed.

(ii) Arbitrated agreements—Petition for review; ((~~answer~~)) response. Any party may petition for commission review of an arbitrator's report and decision within thirty days after the commission issues the arbitrator's report ((~~is issued~~)), or at such other time as is established by notice or order. Other parties to the arbitration proceeding ((~~must file an answer~~)) may file a response within ten days after the petitioner serves the petition ((~~is served~~)), or at such other time as ((~~is established~~)) the commission establishes by notice or order. Both petition and ((~~answer~~)) response must be in the form of a brief of the issues((~~s~~)) and must address all legal and factual bases in support of the parties' respective arguments that the commission should or should not modify the arbitrator's report and decision ((~~should, or should not, be modified~~)).

(iii) Arbitrated agreements—Request for approval. The parties must also file, on the date established for ((~~answering~~)) responding to any petition for review, their request for approval of an arbitrated interconnection agreement and a complete, signed copy of their interconnection agreement including all negotiated terms, all terms requested under ((~~section~~)) 47 U.S.C. Sec. 252(i) ((~~of the Telecommunications Act of 1996~~)), and all terms drafted to implement the arbitrator's report and decision. Arbitrated terms must be in bold font style and identify by footnote the arbitrated issue that relates to the text. Any appendices or attachments to the agreement must be included. The request for approval must summarize the agreement's main provisions((~~The request for approval~~)) and must affirm that the agreement does not discriminate against nonparty carriers, is consistent with state and federal law, and is in the public interest. The commission will reject a request for approval that does not include all of the information required in this section but will allow ((~~it to be refiled~~)) the parties to refile the request when it is complete. The timelines established for commission review of requests for approval do not begin until the parties file a complete request ((~~is properly filed~~)).

(iv) ((~~Filing and service. Parties must file requests for approval with the commission secretary, as provided in WAC 480-07-145. Parties must serve the request for approval on all other parties not filing jointly, as provided in WAC 480-07-~~))

~~150-))~~ Adopted agreements. If a company adopts an interconnection agreement in its entirety that the commission has previously approved, the parties to the adopted agreement must notify the commission of the adoption within thirty days after they sign the adopted agreement. The commission will include the adopted agreement on the no-action portion of a regularly scheduled open meeting agenda. In the absence of an objection, the commission will allow the agreement to become effective according to its terms.

(b) *Commission consideration of requests for approval and petitions for review.*

(i) Negotiated agreements. The commission ~~((will consider a request for approval of))~~ delegates authority to the commission secretary to approve or reject a fully negotiated interconnection agreement ~~((at a regularly or specially scheduled open public meeting))~~. The commission will approve or reject a fully negotiated agreement within ninety days after the date on which the parties file the agreement and request for approval.

(ii) Arbitrated agreements. The commission will consider any petition for review of an arbitrator's report and decision ~~((at hearing, which may, in the commission's discretion, be scheduled coincident with a regularly or specially scheduled open public meeting. The commission may hear oral argument by the parties, oral comment from members of the public, or both. The commission will enter an order approving or rejecting a fully negotiated agreement within ninety days after the date on which the request for approval and interconnection agreement are filed))~~ using the same procedures in WAC 480-07-825 for review of an initial order. The commission will enter an order ~~((resolving))~~ approving or rejecting a partially or fully arbitrated agreement within thirty days after the parties file the agreement and request for approval ~~((and interconnection agreement are filed))~~.

AMENDATORY SECTION (Amending WSR 06-16-053, filed 7/27/06, effective 8/27/06)

WAC 480-07-650 Petitions for enforcement of telecommunications company interconnection agreements. The purpose of this rule is to provide a speedy and enforceable means to resolve disputes when one party to an interconnection agreement contends that the other party is violating the terms of the agreement.

(1) **Petitions for enforcement.** A telecommunications company that is a party to an interconnection agreement with another telecommunications company may petition under this rule for enforcement of the agreement.

(a) *What the petition must contain.* Each petition for enforcement must contain the following elements:

(i) A statement, including specific facts, demonstrating that the petitioner engaged in good faith negotiations to resolve the disagreement, and that despite those negotiations the parties failed to resolve the issue.

(ii) A copy of the provision of the interconnection agreement that the petitioner contends ~~((is not being complied with))~~ the other party is violating.

(iii) A description of facts demonstrating failure to comply with the agreement. One or more affidavits, declarations,

or other sworn statements, made by persons having personal knowledge of the relevant facts must support the description.

(b) *How to serve the petition.* The petitioner must serve the petition for enforcement electronically on the responding party on the same day the petitioner files the petition ~~((is filed))~~ with the commission. ~~((If the petitioner chooses to serve the respondent by mail or parcel delivery service, it must deliver a copy of the petition and all supporting documents by hand delivery, fax, or email (to the email address specified by the recipient for the purpose of receiving a copy of the petition) on the same day as filed with the commission.))~~ For purposes of this section, ~~((service must be effected on))~~ the petitioner must serve:

(i) The responding party's authorized representative, attorney of record, or designated agent for service of process;

(ii) The responding party's representatives with whom the petitioner conducted the negotiations addressed in (a)(i) of this subsection; and

(iii) All parties designated in the interconnection agreement to receive notices.

(c) *Prefiling notice of petition.* The petitioner must give at least ten days' written notice to the respondent that the petitioner intends to file a petition for enforcement. The notice must identify each specific provision of the agreement that the petitioner alleges ~~((was))~~ the other party violated, and the exact behavior or failure to act that petitioner alleges violates the agreement. The petitioner must serve the written notice ~~((must be served))~~ as provided in (b) of this subsection. The petitioner must include a copy of this notice with its petition for enforcement. The written notice shall be valid for thirty days from the date of service. If the petitioner wishes to file a petition for enforcement after the thirty-day period, the petitioner must serve another notice to the respondent at least ten days prior to filing the petition.

(2) ~~((Answering))~~ **Responding to a petition.** The respondent may ~~((answer))~~ respond to the petition. The respondent waives the opportunity to present any matter that is not raised in the ~~((answer.))~~ response except ~~((that the answer may be amended))~~ as provided under subsection (3) of this section.

(a) *Contents of the ~~((answer. The answer))~~ response.* The response to a petition for enforcement must respond to each allegation of failure to comply with the terms of the interconnection agreement, stating relevant facts. The respondent must support any facts ~~((relied upon must be supported))~~ on which it relies by affidavits, declarations, or other sworn statements by persons having personal knowledge of the facts.

(b) *Filing and service of the ~~((answer))~~ response.* The respondent must file the ~~((answer))~~ response with the commission and serve it electronically on the petitioner within five business days after ~~((service of))~~ the petitioner serves the petition for enforcement. ~~((Service must be accomplished so that a copy of the response to the petition for enforcement and all supporting documents reach the petitioner's attorney, or the person who signed the petition if petitioner has no attorney, on the same day the answer is filed with the commission. If the respondent chooses to serve the petitioner by mail, a copy of the petition for enforcement and all supporting docu-~~

ments must be delivered to the person identified above on the same day as filed with the commission.)

(3) **Amendment of petition and ~~((answer))~~ response.** The presiding officer may permit the ~~((responding party))~~ respondent to amend its ~~((answer))~~ response for good cause shown, and to avoid substantial prejudice to the ~~((responding party that is not caused by the fault of the responding party))~~ respondent for which the respondent is not responsible. The presiding officer may permit either party to amend its petition or ~~((answer))~~ response to conform to the evidence presented during the proceeding. The presiding officer may refer to, but is not bound by, ~~((CR 15(b) of the Washington superior court civil rules,))~~ Washington superior court civil rule 15(b) when determining whether to permit amendment of the petition or answer to conform to the evidence.

(4) **Prehearing conference.** The commission will conduct a prehearing conference regarding ~~((each))~~ a petition for enforcement of an interconnection agreement.

(a) *Schedule; mandatory attendance.* The presiding officer will issue a notice of a prehearing conference within five business days after the petitioner files the petition ~~((is filed))~~. Both the petitioner and the respondent must attend the prehearing conference. The prehearing conference may be conducted by telephone.

(b) *Procedural determination.* The presiding officer will determine at the prehearing conference whether the commission can resolve the disputed issues raised in the petition ~~((can be determined))~~ by relying only on the pleadings, ~~((submissions))~~ filings, and any oral statements without further proceedings. When determining whether to schedule an oral enforcement hearing session, the presiding officer will consider the following: (i) The parties' preferences and the reasons they advance; (ii) the need to clarify statements by asking questions; (iii) whether the issues are largely factual, largely legal, or involve questions of fact and law; (iv) the apparent complexity of facts and issues; (v) the need for speedy resolution; and (vi) the completeness of information presented. The presiding officer may require the parties to ~~((submit))~~ file written briefs on the issues.

(c) *Means of obtaining additional information.* If the presiding officer determines that further proceedings are necessary, the presiding officer will establish a schedule for receiving additional facts or evidence and may schedule an enforcement hearing session to explore the facts and issues raised in the petition and the ~~((answer. The party filing the petition or answer may file with the petition or answer a request for discovery))~~ response. Either party may request that the commission make its discovery rules available, stating the matters ~~((to be inquired into))~~ into which the party seeks to inquire and their relationship to matters directly at issue. The presiding officer may allow limited discovery requiring only the disclosure of facts relating directly to matters at issue, and only if the requesting party shows that discovery is ~~((shown to be essential to the requesting party))~~ essential. The presiding officer will establish a shortened discovery schedule to comply with the timelines of this rule.

~~((d))~~ *Consideration as a complaint.* If the matter at issue involves policy, technical or accounting issues that require extensive analysis or discovery, the commission may convert the proceeding to a complaint proceeding under RCW 80.04-

110 to allow adequate time and process for the demands of the proceeding.)

(5) **Powers of the presiding officer; conversion of proceeding; ~~((recommended))~~ initial or final ~~((decision))~~ order.**

(a) *Conduct of proceeding.* The presiding officer has broad discretion to conduct the proceeding in a manner that best suits the nature of the petition~~(s)~~ including, but not limited to, converting the proceeding into a complaint proceeding under RCW 80.04.110. Matters may be appropriate for conversion when: (i) Their complexity requires that they cannot be completed on the schedule provided in this rule; ~~((when))~~ (ii) the petitioner requires discovery beyond a disclosure of facts directly related to the matters at issue; ~~((when))~~ (iii) extensive policy argument or legal briefing is required; or ~~((when))~~ (iv) participation by parties other than the petitioner and the respondent is necessary. The presiding officer may limit the record to written ~~((submissions))~~ filings or may schedule an enforcement hearing ~~((session))~~. The presiding officer may limit the number of exhibits and witnesses and the time for their presentation.

(b) ~~((Recommended decision-))~~ *Initial order.* The presiding officer, if other than the commissioners, will ~~((serve a recommended decision on the parties))~~ enter an initial order resolving the petition within seventy-five days of the date the petitioner submitted the petition ~~((for enforcement was filed))~~, or twenty-one days after the last hearing session or ~~((submission))~~ filing, whichever is later. ~~((The recommended decision is subject to approval by the commission.))~~ If the commissioners preside over the enforcement proceeding, they may enter a final ~~((decision))~~ order within the time requirements applicable to ~~((recommended decisions))~~ initial orders.

(c) *Commission review ~~((of the recommended decision))~~.* Any party may file a petition for administrative review of ~~((a recommended decision))~~ the initial order within seven days after the commission enters the order ~~((is entered. A party opposing review)).~~ The opposing party may file ~~((an answer))~~ a response within five days after the petitioner files a petition for review ~~((is filed. The commission may hear the parties' arguments regarding any recommended decision on the written pleadings or during oral argument, which may, in the commission's discretion, be scheduled coincident with a regular or special open public meeting. The commission may request commission staff to make a presentation at the argument. The commission will conduct this session within ten days after the date of the recommended decision, or as soon thereafter as the commissioners' schedules permit. If no party files a petition for administrative review, the commission may adopt the recommended decision without material change. If the commission considers making a material change in a recommended order to which no petition for review has been filed, the commission must first seek the views of the parties on the issue)).~~

(6) **Commission decision on petition for enforcement.** ~~((a))~~ *Extent of commission discretion.* The commission will serve a final decision on the parties in the form of a commission order resolving the issues. The commission may adopt, modify, or reject all or part of any recommended decision.

~~(b) **Time of service.**~~) The commission will enter its final order on the petition for enforcement no later than ninety days after the date the ~~((petition is filed or fifteen))~~ petitioner filed the petition or thirty days after ((the meeting at which it reviews the recommended decision)) a party files a petition for review of an initial order, whichever is later. The commission may extend this time for ~~((lack of resources or for other))~~ good cause.

~~((e) **Petition for reconsideration.**~~ The parties may petition for reconsideration within ten days after the commission serves its order on the petition for enforcement. If a party petitions for reconsideration, the commission may request that an answer be filed. The commission may request additional comments, briefing, evidence, or argument from the parties. Filing a petition for reconsideration of the order does not stay the effect of the order. A petition for reconsideration is deemed denied unless the commission grants or denies it by written order within ten days after the date on which petition for reconsideration is filed or the date established for filing an answer or additional comments, briefing, evidence, or argument, whichever is later. The commission may alter the time for entering its order on a petition for reconsideration by notice or letter.

~~(d) **Failure to comply with the order.**~~ Any party who fails to comply with the terms of the commission's final order on a petition for enforcement is subject to penalties under RCW 80.04.380 and any other penalties or sanctions as provided by law. A company against whom a penalty is assessed may challenge the penalty or the facts on which it is based, or seek mitigation of the penalty, pursuant to pertinent law and commission rules.)

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-660 Railroad grade-crossing closures ~~((—Objections)).~~ The commission may grant a petition to close a railroad grade crossing without a hearing unless the commission receives an objection to the proposed closure within twenty days after providing notice of the petition as required in RCW 81.53.060.

~~(1) ((**Filing.** Anyone who objects to a highway railroad))~~ **Objections.** An objection to a petition to close a railroad grade crossing ~~((closure under RCW 81.53.060 must file an objection in writing within twenty days after publication of notice of the proposed closure. The objection))~~ must be in writing and must:

- (a) Identify the person or persons who object by full name ~~((and)),~~ mailing address, telephone number, and email address;
- (b) Identify the particular crossing that is the subject of the objection;
- (c) State the commission docket number ~~((, if known));~~ and
- (d) Explain the basis for the objection.

If a communication does not meet these requirements, the commission will not treat the communication as an objection when determining whether a hearing is required under RCW 81.53.060.

~~(2) ((**Party status, appearances, service of final order.** Filing an objection does not make a person a party to a proceeding under RCW 81.53.060.))~~ **Parties.** Only parties may fully participate in any proceeding the commission conducts to determine whether to grant a contested petition for a railroad grade crossing closure. A person other than the petitioner and commission staff who wishes to participate as a party ((must enter an appearance)) including, but not limited to, a person filing an objection to the closure, must petition to intervene prior to or at the initial prehearing conference or first hearing session, whichever is earlier, as prescribed ((by)) in WAC 480-07-340. ((A person who fails to establish party status by appearance may file a "late filed petition to intervene" as provided in WAC 480-07-355. A person must establish party status to be entitled to service of any initial order or the commission's final order in the matter. Persons who are not parties may receive a courtesy copy of any initial or final order on request.))

~~(3) ((**Other**))~~ **Interested persons.** The commission will provide interested persons who are not parties ((will be provided)) with an opportunity to ((be heard)) comment on the issues in the proceeding and offer evidence, as required by RCW 81.53.060. Such interested persons ((who are not parties)), however, may not call witnesses, cross-examine witnesses, or otherwise participate as a party((—Interested persons who are not parties)) at the hearing and do not have standing to file petitions for administrative review of initial orders or to file petitions for reconsideration of final orders.

AMENDATORY SECTION (Amending WSR 06-16-053, filed 7/27/06, effective 8/27/06)

WAC 480-07-700 Alternative dispute resolution. The commission supports parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest ~~((, and subject to approval by commission order)).~~ Alternative dispute resolution (ADR) includes any mechanism to resolve disagreements, in whole or in part, without contested hearings.

(1) No delegation of commission authority. The commission cannot delegate to parties the power to make final decisions in any adjudicative proceeding. The commission ~~((retains and will exercise its authority in every adjudicative proceeding to consider))~~ will determine whether to approve and adopt any proposed settlement or other agreement ((for approval)) and the extent to which it resolves some or all of the issues presented in the proceeding consistent with the public interest.

(2) Forms of ADR. The commission provides the following nonexclusive forms of ADR:

(a) Voluntary negotiation. Parties to a dispute that is within the commission's jurisdiction may agree to negotiate with any other parties at any time without commission oversight.

(b) Commission-directed negotiation. The commission may direct parties to meet or consult as provided in subsection (3) of this section, or may establish or approve a collaborative process as provided in WAC 480-07-720.

(c) Mediation. The commission may assign commission staff trained in ADR principles and techniques to serve as

neutral third parties (e.g., mediator or facilitator) to assist the parties in formal or informal mediation.

(d) Assignment of settlement judge. The commission may assign a settlement judge to assist the parties to resolve their dispute through negotiation in appropriate circumstances.

(e) Arbitration. The commission may provide an arbitrator whose decision is subject to commission review in matters for which arbitration is authorized.

(3) **Settlement conference.** A settlement conference ~~((means))~~ is any discussion or other communication~~((, in person or otherwise, intended to resolve one or more disputed issues (whether actual or anticipated)))~~ between two or more parties in an adjudicative proceeding intended to resolve one or more disputed issues. Settlement conferences do not include requests for information ~~((or)), for clarification, or in aid of discovery,~~ or communications to identify whether a dispute exists or whether another party is willing to negotiate resolution of a disputed issue~~((, or in aid of discovery)).~~ Settlement conferences must be informal and without prejudice to the rights of the parties. The parties may waive the procedural requirements of this section relating to settlement conferences ~~((may be waived))~~ if all parties and the commission agree. Any party and any person who has filed a petition to intervene may participate in an initial or early ~~((initial))~~ settlement conference as defined in this section. An intervenor's participation in a settlement conference is limited to the interests supporting its intervention, except by agreement of other participants in the conference. No party is required to attend a settlement conference, but any party that attends and participates must make a good faith effort to resolve one or more disputed issues in which the party has a substantial interest.

(a) Initial settlement conference. The commission will ~~((set))~~ include in the procedural schedule for each adjudicative proceeding the date for ~~((an initial))~~ at least one settlement conference. Parties ~~((wishing to))~~ may reschedule ~~((the initial))~~ a settlement conference ~~((must seek modification of))~~ included in the procedural schedule without seeking to modify the schedule ~~((by the presiding officer upon notice to all other))~~ if all parties agree, but the parties must provide notice to the presiding officer of the rescheduled date.

(b) Early ~~((initial))~~ settlement conference. Any party ~~((that wishes to))~~ may initiate a settlement conference with any other party ~~((between the filing of the docket and))~~ after the commission opens a docket and before the initial prehearing conference ~~((must have included in its notice to customers, if otherwise required, a statement indicating that an early initial settlement conference might be scheduled. In addition, the party proposing an early initial)), but in general rate proceedings for electric, natural gas, or Class A telecommunications companies, the party initiating the settlement conference must provide ten days prior notice of any such conference to the commission, ((public counsel;)) any statutory party, any person ~~((that has filed))~~ who has submitted a petition to intervene or notice of appearance, and any person ~~((that))~~ who was a party in the most recent proceeding of the same type~~((;))~~ involving the same filing party and respondent, if any. Such persons may participate in ~~((an early initial))~~ the early settlement conference ~~((in the docket if they~~~~

~~file)), as may any other person who submits a petition to intervene prior to the early~~ ~~((initial))~~ settlement conference.

(4) ~~((ADR))~~ **Settlement negotiation guidelines.** In any settlement negotiation, including collaboratives, settlement conferences, and mediations, the following apply unless all participants agree otherwise:

(a) ~~((The parties, as their first joint act, will consider the commission's guidelines for negotiations, set out in a policy statement adopted pursuant to RCW 34.05.230, and determine the ground rules governing the negotiation;~~

~~((b))~~ No statement, admission, or offer of settlement made during negotiations is admissible in evidence in any formal hearing before the commission without the consent of the participants or unless necessary to address the process of the negotiations;

~~((e))~~ Parties may agree that (b) Information exchanged exclusively within the context of settlement negotiations will be treated as confidential~~((, subject to the requirements of RCW 5.60.070; and~~

~~((d))~~ and will be privileged against disclosure to the extent permitted by law;

(c) Participants in a commission-sanctioned ADR process must periodically advise any nonparticipating parties and the commission of any substantial progress made toward settlement~~((Participants))~~ and must immediately advise the commission if ~~((a commission-sanctioned ADR))~~ that process is without substantial prospects of resolving the issue or issues under discussion (i.e., if the participants agree that they are at an impasse ~~((has been reached or an impasse is declared by))~~ or any neutral third party who is assisting the participants in the ADR process~~((;~~

~~((e))~~ declares an impasse); and

(d) Any mediator, facilitator, or settlement judge who assists the participants in an ADR process will not participate in any adjudication, arbitration, or approval process for the same proceeding~~((;))~~ unless all parties consent in writing.

AMENDATORY SECTION (Amending WSR 06-16-053, filed 7/27/06, effective 8/27/06)

WAC 480-07-710 Mediation. (1) **Scope.** This rule applies generally to settlement negotiations in which the commission agrees to assign a qualified mediator to assist the parties. This rule ~~((applies specifically to))~~ also implements the mediation provisions of ~~((sections 251 and 252 of))~~ the Telecommunications Act of 1996, 47 U.S.C. ~~((§§))~~ Secs. 251 and 252.

(2) **Commission participation.** The parties to a negotiation~~((, including a negotiation under 47 U.S.C. §§ 251 and 252;))~~ may ask the commission to mediate any differences that arise during the negotiation. A request for mediation must include a brief statement of the nature of the dispute and the names, postal and email addresses, and telephone ~~((and fax))~~ numbers of the parties and their representatives. Copies of the request must be served on all parties to the negotiation. All parties are required to participate in good faith if the commission agrees to mediate.

(3) **Mediators.** The commission may assign ~~((one or more))~~ a qualified employee~~((s))~~ to serve as ~~((mediator(s)))~~ a mediator. The commission may require the parties to retain

the services of a professional mediator acceptable to all parties.

(4) **Process.** Mediators have discretion to regulate the course of the mediation, including scheduling mediation sessions, in consultation with the parties. The following general procedures apply:

(a) The mediator may not impose a settlement but may offer proposals for settlement;

(b) The mediator may meet individually with the parties or attorneys during mediation;

(c) Only the parties to the negotiation and the mediator may attend the mediation session(s), unless all parties and the mediator consent to the presence of others;

(d) Parties must provide the mediator with a brief statement of position and relevant background information prior to the first mediation session;

(e) The mediator may ask for supplemental information;

(f) The mediator may not provide legal advice to the parties, nor are any mediator's stated opinions as to law or policy binding on the commission(;) unless ((later adopted by the commission)) the commission subsequently adopts them;

(g) The mediation process is confidential and the information exchanged is privileged to the extent permitted by law(, subject to the requirement for a written agreement or other record indicating an expectation that mediation communications will be privileged against disclosure as required under RCW 7.07.020); and

(h) No stenographic or electronic record will be ((kept)) made.

(5) **Fees and costs.** Each party must bear its own ((fees and)) costs for the mediation. Each party must pay any fees imposed by commission rule or statute.

(6) **Notice to commission.** Parties must advise the commission if they reach a full, partial, or multiparty settlement ((and may suggest preferred procedural alternatives for review of the settlement, subject to the requirements of WAC 480-07-640 (commission approval of interconnection agreements) or WAC 480-07-740, as appropriate)). The commission will ((determine the appropriate procedure in each proceeding)) review the settlement consistent with the requirements of WAC 480-07-640 or 480-07-740, as applicable.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-720 Collaboratives. (1) ((~~Defined; membership.~~) **Definition.** A collaborative is a commission-sanctioned negotiation in which interested persons work with each other and representatives of commission staff to achieve consensus on one or more issues(;) within the commission's jurisdiction(, assigned to or identified by)) that the commission assigns or the collaborative participants identify.

(2) **Establishment.** The commission may establish a collaborative on its own initiative or in response to a petition. A petition seeking to establish a collaborative must state the issues on which the petitioner seeks consensus, identify potential participants, and explain why a collaborative would be beneficial to resolve the issues. The commission, in its discretion, may approve the petition and establish a collaborative or may deny the petition.

(3) **Participation.** Any person whose interests may be substantially affected by the result of the collaborative ((~~must be given an opportunity to~~)) may participate in the collaborative. Once the commission establishes a collaborative, the participants ((~~must inform the commission and seek approval if a collaborative seeks to change its membership~~)) may not change the participants or redefine the issues ((~~it~~)) they will address without commission approval.

((~~2~~)) **Procedure.** ~~Participants must develop procedural guidelines for their negotiations when beginning a collaborative and should refer to any commission policy statement(s) that relate to ADR for guidance.~~

((~~3~~)) (4) **Communication with commission.** Collaborative participants must agree on the form and substance of any communication ((~~between~~)) they have with the commission ((and collaborative)) concerning the collaborative. The participants may ((~~be~~)) communicate with the commission through commission staff ((~~assigned to serve~~)) if staff is not a participant and is serving as a neutral third party in the collaborative, ((~~or through~~)) and staff should establish if this will be its role at the outset of the collaborative. Otherwise, the participants should address their communications to the commission secretary(, subject to agreement among the participants to the form and substance of any such communication).

(5) **Conclusion.** The participants must inform the commission when they: (a) Have reached consensus on the issues to be addressed in the collaborative; (b) have reached partial consensus on those issues and believe further negotiation would not be fruitful; or (c) have reached an impasse and believe that further negotiations would not be fruitful. The participants should propose any commission action they recommend as a result of the collaborative.

AMENDATORY SECTION (Amending WSR 06-16-053, filed 7/27/06, effective 8/27/06)

WAC 480-07-730 Settlement. A settlement is an agreement among two or more parties to a commission adjudication that resolves one or more disputed issues in that proceeding(, filed). All settlements must be documented in a written settlement agreement that the parties file with the commission as a proposed resolution of ((~~one or more~~)) those issues. ((~~Parties must submit an electronic copy of the settlement agreement in the format identified in WAC 480-07-140 (6).~~)) No settlement is effective unless and until the commission approves it.

(1) **Full settlement.** A full settlement is an agreement of all parties that would resolve all disputed issues in ((~~a proceeding may be presented as a full settlement for commission review~~)). Parties who file a full settlement should file supporting evidence at the same time as the settlement agreement, or within a reasonable time following filing of the settlement agreement)) an adjudication.

(2) **Partial settlement.** A partial settlement is an agreement of all parties on some, but not all, of the disputed issues ((~~may be presented as a partial settlement for commission review, and remaining matters may be litigated~~)). Parties who file a partial settlement should file supporting evidence at the same time as the settlement agreement, or within a reasonable

time following filing of the settlement agreement)) in an adjudication. The parties may litigate the disputed issues the agreement does not resolve.

(3) **Multiparty settlement.** A multiparty settlement is an agreement ~~((of))~~ among some, but not all, parties ~~((on))~~ in an adjudication to resolve one or more disputed issues ~~((may be offered as their position in the proceeding along with the evidence that they believe supports it. Nonsettling parties may offer evidence and argument in opposition))~~.

(a) *Full multiparty settlement.* A full multiparty settlement is an agreement among some, but not all, parties to resolve all disputed issues between them. The parties that are not included in the settlement agreement have the rights set forth in WAC 480-07-740 (3)(c).

(b) *Partial multiparty settlement.* A partial multiparty settlement is an agreement among some, but not all, parties to resolve some, but not all, disputed issues between them. The parties may litigate the disputed issues the agreement does not resolve. The parties that are not included in the settlement agreement also have the rights set forth in WAC 480-07-740 (3)(c).

(4) **Notice to commission.** When submitting any type of settlement agreement for commission approval, parties must advise the commission if they ~~((reach))~~ have reached a full, partial, ~~((or))~~ full multiparty, or partial multiparty settlement ~~((and may suggest preferred procedural alternatives for review of the settlement, subject to the requirements of WAC 480-07-740. The commission will determine the appropriate procedure in each proceeding consistent with the requirements of WAC 480-07-740))~~.

(5) **Settlement agreement contents.** A settlement agreement must describe the dispute between the parties and set forth the terms and conditions to which the parties have agreed to resolve that dispute.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-740 Settlement consideration procedure. The commission ~~((must))~~ will review all settlement agreements to determine whether ~~((a proposed settlement meets all pertinent legal and policy standards. The commission must have a reasonable opportunity to hear parties' views on why the settlement should be approved and adopted, to ask questions of the parties, and to conduct its processes in an orderly fashion. Parties must, therefore, consider the timing and the content of the settlement presentation to the commission))~~ they comply with applicable legal requirements and whether approval of the agreements is consistent with the public interest.

(1) ~~((Settlement presentation timing. Parties must file a proposed settlement with a recommended effective date that allows the commission sufficient time to schedule a formal settlement hearing and provide an opportunity for public comment when the commission, after consulting the parties, determines that such comment is needed. The commission must have sufficient time to deliberate and to prepare an order responding to the proposal. The parties must allow sufficient time for the filing, review, and approval of))~~ **General.** The timing and content of any settlement agreement submit-

ted to the commission must afford the commission a reasonable opportunity to:

(a) Review the terms of the settlement;

(b) Consider evidence and argument from all parties on why the commission should or should not approve and adopt the settlement;

(c) Consider any public comments the commission receives;

(d) Enter an order prior to the recommended effective date of a settlement agreement and any statutory deadline by which the commission must take action in the proceeding; and

(e) Review and approve any required compliance filing.

(2) Specific timing requirements.

(a) ~~((General rate))~~ *Complex proceedings.* In general rate proceedings for electric, natural gas, and Class A telecommunications companies or matters of comparable complexity, parties must ~~((allow))~~ submit a settlement agreement and supporting documentation to the commission at least ~~((thirty days between filing a proposed settlement agreement and the))~~ sixty days prior to any statutory deadline for commission action or requested effective date of any tariff changes or other terms and conditions of the settlement.

(b) *Less complex matters.* In matters that are less complex, parties must ~~((allow))~~ submit a settlement agreement and supporting documentation to the commission at least ~~((twenty-one days between filing a proposed settlement agreement and the))~~ thirty days prior to any statutory deadline for commission action or requested effective date for any tariff changes or other terms and conditions of the settlement.

(c) *Notice to commission* ~~((inquiries regarding arrangements for review))~~. Parties should inform the ~~((commission at the earliest opportunity when it appears that they may))~~ presiding administrative law judge as soon as they reach a settlement in principle and ~~((ask))~~ request that the commission ~~((to make tentative))~~ suspend the procedural schedule or make other arrangements for filing and review ~~((Parties may direct informal inquiries to the supervisor of the commission's administrative law function or the supervisor's designee))~~ of the parties' settlement agreement after the parties have executed it. In the cover letter accompanying the filing of a settlement agreement with the commission, the parties should highlight any time-sensitive provisions in that agreement.

(d) *Statutory deadline.* Upon receiving a request to suspend the procedural schedule for commission consideration of a settlement agreement in general rate proceedings or other proceedings in which a statute requires final commission action within a specified time period, the commission may require the party that submitted the suspended tariff or other initial filing at issue to inform the commission whether the party would be willing to extend the statutory deadline, if necessary, to add the amount of time the commission requires to consider the settlement and take final action in the proceeding. The commission may decline to consider a settlement agreement if the commission determines that it cannot consider the settlement and take final action in the proceeding by the statutory deadline.

(e) *Hearing.* The commission will ~~((schedule))~~ conduct a hearing ~~((to consider a proposed settlement))~~ if the commission believes that a hearing will assist ~~((it))~~ the commission to

decide whether to approve and adopt the ((proposal)) settlement.

~~((e) Timing;)~~ (f) Requested effective date. The commission will endeavor to ~~((meet))~~ render a decision on the settlement prior to the parties' requested effective date if the parties submit the settlement agreement in compliance with this section, but the commission cannot guarantee that it will be able to do so.

~~((2))~~ (3) Settlement presentation ((contents)). When ~~((filing a proposed))~~ submitting a settlement agreement((;)) for commission approval, the settling parties must ~~((also file))~~ include supporting documentation sufficient to demonstrate ((to the commission)) that the ((proposal)) settlement is consistent with the law and the public interest ((and that it is appropriate for adoption)).

(a) ~~((Narrative;))~~ Supporting documentation. The supporting documentation ~~((should include a narrative outlining the scope of the underlying dispute; the scope of the settlement and its principal aspects; a statement of parties' views about why the proposal satisfies both their interests and))~~ must describe the disputed issue(s) and proposed resolution and must include or reference sufficient evidence to support commission approval and adoption of the settlement agreement under applicable law consistent with the public interest ((; and a summary of legal points that bear on the proposed settlement)). The documentation may be in the form of a ~~((memorandum))~~ brief, supporting prefiled testimony, ((brief;)) or other form that serves the same functions. Documentation supporting a settlement agreement in a general rate proceeding or other complex proceeding must include prefiled testimony.

(b) Testimony. Each party to a settlement agreement must offer to present one or more witnesses to testify in support of the ~~((proposal and))~~ settlement agreement and to answer questions concerning the ((settlement)) agreement's details, ((and its)) costs, and benefits. ((Proponents of a proposed settlement must present sufficient evidence to support its adoption under the standards that apply to its acceptance.)) If the commission conducts a hearing on the settlement, counsel for each party must be prepared to make a brief presentation ((of the settlement,)) and address any legal matters associated with ((it. Counsel)) the settlement agreement. Each party's witness(es) must be available to respond to questions from the bench ((regarding those subjects)) and cross-examination by counsel for any party that opposes the settlement.

(c) Rights of ((opponents of a proposed)) parties opposed to a settlement. Parties opposed to the commission's approval and adoption of a ~~((proposed))~~ settlement retain the following rights:

(i) The right to cross-examine witnesses supporting the ~~((proposal))~~ settlement;

(ii) The right to present evidence ~~((opposing the proposal))~~ in support of their opposition to the settlement;

(iii) The right to present argument in opposition to the ~~((proposal))~~ settlement; and

(iv) The right to present evidence, or((;)) in the commission's discretion((;)) an offer of proof, in support of ~~((the opposing party's preferred result))~~ their position on how the

commission should resolve the disputed issues in the proceeding.

(d) Discovery. The presiding officer may allow discovery on the proposed settlement ~~((in the presiding officer's discretion)).~~

AMENDATORY SECTION (Amending WSR 06-16-053, filed 7/27/06, effective 8/27/06)

WAC 480-07-750 Commission discretion to ~~((accept)) consider and approve or reject a settlement((; impose conditions, or reject a proposed settlement)).~~ (1) Consideration of a settlement. The commission ~~((may))~~ will decide whether ((or not)) to consider a ((proposed)) settlement. The commission ((will approve settlements when doing so is lawful, when the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission)) generally will consider a settlement that complies with the requirements in WAC 480-07-740.

(2) **Approval or rejection of a settlement.** If ~~((the commission))~~ it considers a ~~((proposed))~~ settlement, ((it may accept the proposed)) the commission may approve the settlement, with or without conditions, or may reject it((-

(a) If the commission rejects a proposed settlement, the litigation returns to its status at the time the settlement was offered and the time for completion of the hearing will be extended by the elapsed time for consideration of the settlement and may take into account the need to address other pending business before the commission)). The commission will approve a settlement if it is lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the commission.

(a) Approval without conditions. If the commission approves a settlement without conditions, the commission will adopt the terms set forth in the settlement agreement as the resolution of the disputed issues identified in that agreement.

(b) Approval with conditions. If the commission ((accepts a proposed)) conditions its approval of a settlement ((upon conditions not proposed)) on terms that are not included in the settlement((-the parties may seek reconsideration of the decision and the settling parties must within the time for reconsideration state their rejection of the conditions)) agreement, the commission will provide the parties with the opportunity to accept or reject the commission's conditions.

(i) If all parties to the settlement agreement timely notify the commission that they accept the conditions, the terms in the settlement agreement and the commission's conditions will resolve the issues identified in the settlement agreement. The commission's order conditionally approving the settlement agreement will then become final by operation of law with respect to those issues without further action from the commission.

(ii) If a party ((rejects a proposed)) to the settlement rejects any of the commission's conditions or does not unequivocally and unconditionally accept all of those conditions, the commission will notify the parties that it deems the settlement ((is deemed)) to be rejected, and ((a)) (c) of this

subsection applies. A party may seek clarification or reconsideration of a commission order approving a settlement agreement with conditions pursuant to WAC 480-07-835, 480-07-840, or 480-07-850.

(c) Rejection. If the commission rejects a settlement, the adjudication returns to its status at the time the commission suspended the procedural schedule to consider the settlement. The commission may conduct a prehearing conference to establish a procedural schedule for the remainder of the adjudication. Subject to compliance with any statutory deadline for commission action or an agreed extension of such a deadline, the commission may extend the time for completion of the proceedings by the elapsed time for commission consideration of the settlement.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-800 (~~General definitions~~) Order entry, effectiveness, and service. (1) (~~"Entry" of~~) **Entry.** The commission has entered an order (means the signing of the order by all persons who are to sign the order,) when all authorized persons have signed it as an official act indicating that the order is to be effective, and those persons or their designee have submitted the order to the commission's records center for service. Each order will state the date on which (it is entered) the commission enters it.

(2) **Effectiveness.** An order is effective when (entered,) the commission enters it unless (an) the order specifies a different effective date (other than the date the order is entered is specified in the order).

(3) (~~"Service" of~~) **Service.** The commission serves an order (means placing copies of the order in the U.S. mail, postage prepaid, addressed to all parties and any other persons required by law to be served) as provided in WAC 480-07-360. Each order will state the date on which (it is served) the commission serves it. The service date of an order governs the determination of time limits for further administrative procedure or for judicial review.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-810 Interim or interlocutory orders. (1) **Defined.** Orders (entered during the course of) the commission enters in an adjudicative proceeding (are) prior to entering an initial or final order are interim or interlocutory orders (as distinguished from initial orders that may be entered by an administrative law judge at the conclusion of a proceeding and final orders entered by the commission at the conclusion of a proceeding. Examples of), Interim or interlocutory orders (are orders concerning) include, but are not limited to, orders ruling on a party's participation in a proceeding, (orders concerning) scheduling issues, discovery disputes, and (orders that relate to proposed evidence) evidentiary issues.

(2) **When review is available.** The commission has discretion to review interim or interlocutory (review is discretionary with the commission) orders. The commission may accept review of (interim or interlocutory) such orders (in adjudicative proceedings) if it finds that:

(a) The (ruling) order terminates a party's participation in the proceeding, and the party's inability to participate thereafter could cause it substantial and irreparable harm;

(b) ((A) Immediate review is necessary to prevent substantial prejudice to a party that would not be remediable (by post-hearing review) in the commission's final order; or

(c) ((A) Immediate review could save the commission and the parties substantial effort or expense, or some other factor is present that outweighs the costs in time and delay of exercising review.

(3) **Process for seeking review.** Any party may petition for review of an interim or interlocutory order.

(a) The party must file and serve a petition(s) for interlocutory review (must be filed and served on other parties) within ten days after (service of) the commission serves the order (or issuance of the ruling for which) the party is petitioning the commission to review (is requested). The petition must (state) provide a full explanation of why the (ruling is in error or) petitioner believes the order is erroneous or otherwise should be changed and why (interlocutory) immediate review is necessary (and must cite reasons that support the petition. Answers must be filed).

(b) Any other party may file and serve a response to the petition within ten days after the petitioner files the petition (is filed. The commission may alter these filing deadlines when doing so is consistent with the public interest) unless the commission establishes a different deadline.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-820 Initial and final orders. (1) **Defined.**

(a) **Initial orders.** (Initial orders (dispose of the merits in a proceeding that is conducted before an) are orders an administrative law judge enters that resolve the disputed issues in adjudications in which the administrative law judge (and are entered over the signature of the administrative law judge. Initial orders include those that grant dispositive motions (e.g., motions to dismiss and motions for summary determination) and orders that resolve contested issues on the basis of the official record in a proceeding. All initial orders are subject to further action by the commission as provided in WAC 480-07-825) presides without the commissioners. The commission secretary also may enter initial orders in response to challenges to, or requests for mitigation of, commission penalty assessments.

(b) **Final orders.** (Final orders (dispose of the merits of a proceeding following consideration by the commissioners and are entered over the signatures of a majority of the commissioners. Final orders include those that grant dispositive motions (e.g., motions to dismiss and motions for summary determination) and orders that resolve contested issues on the basis of the official record in a proceeding. Final orders may be entered whenever:

(i) The commissioners personally preside over a proceeding;

(ii) The commissioners enter an order following administrative review of an initial order in response to a timely petition for administrative review;

~~(iii) The commissioners enter an order after the period available for petitions for administrative review and no such petition has been filed;~~

~~(iv) All of the parties to a proceeding waive their right to an initial order; or~~

~~(v) The commissioners enter an order following the timely filing of a petition for reconsideration of a final order or a petition for rehearing of a final order)) are orders that a majority of the commissioners enter that resolve the substantive disputed issues in an adjudication in which the commissioners preside or that a majority of the commissioners enter on review of an initial order entered by an administrative law judge or the commission secretary.~~

(2) **Service.** The commission will serve ~~((a copy of any))~~ initial ~~((order and the commission's))~~ and final orders ~~((to each party of record and to the party's attorney or other authorized representative pursuant to RCW 34.05.461(9) and WAC 480-07-150(3)))~~ on all party representatives included in the master service list in an adjudication.

(3) **Timing.** Except as otherwise provided in these rules or applicable statute, the presiding ((officer)) administrative law judge will enter an initial order within sixty days after the commission receives transcripts following the close of the record, hears oral argument (if allowed or required), ((initial briefs are filed, or reply)) or receives final briefs ((are filed)), whichever occurs last. Except as otherwise provided in these rules or applicable statute, the commission will enter its final order within ninety days after the commission receives transcripts following the close of the record, hears oral argument (if allowed or required), ((initial briefs are filed, or reply briefs are filed, or the commission)) receives final briefs, or receives a petition for administrative review or ((an answer)) a response to a petition for review, whichever occurs last. The ((presiding officer or the)) commission may alter the time for ((entry of)) entering an initial or final order ((by notice to the parties)) for good cause.

AMENDATORY SECTION (Amending WSR 06-17-126, filed 8/21/06, effective 9/21/06)

WAC 480-07-825 Initial orders—Finality; petitions for administrative review; motions for clarification. (1) ~~((When a))~~ **Initial order finality.**

(a) An initial order will conclude a proceeding and thus be considered final unless within the time for petitioning for administrative review:

- (i) A party timely petitions for administrative review; or
- (ii) The commission notifies the parties that it intends to review the initial order.

(b) Parties that seek finality of an initial order before the end of the petition period may waive the right to seek administrative review. If all parties waive review, the order will become final on the day the commission issues a notice of finality declining to exercise administrative review or when the time for exercising such review ends.

(c) An initial order that becomes final by operation of law does not reflect a decision by the commissioners and has no precedential value. Such orders, if cited, must be identified as initial orders.

~~(2) **Petition for administrative review ((is appropriate)).** A party ((who wishes to)) may challenge any finding of fact, conclusion of law, remedy, or result ((proposed by)) in an initial order ((may file a petition)) by petitioning for administrative review. A party also may ((file a)) petition for administrative review to challenge the reasons stated in support of any result reached in an initial order. The commission will accept only one petition for administrative review of an initial order from any party.~~

~~((2)) (a) **Timing of petition.** ((Any)) A party ((to an adjudicative proceeding may)) must file and serve ((a)) any petition for administrative review within twenty days after the commission serves the initial order ((is served)). The commission may extend or shorten the time on a showing of good cause.~~

~~((3)) (b) **Contents ((length)).** Petitions for administrative review must ((clearly)) not exceed thirty pages in length and must conform to the following requirements:~~

~~(i) Every petition must identify with specificity the nature of each challenge to the initial order((, the evidence, law, rule or other authority that the petitioner relies upon to support the challenge, and state the remedy that the petitioner seeks. Petitions for review of initial orders must be specific)). The petitioner must separately state and number every contention.~~

~~(ii) A petition that challenges a finding of fact must cite the ((pertinent)) page or part of the record ((or must otherwise state the evidence it)) that includes the evidence on which the petitioner relies ((en)) to support its ((petition,)) challenge and should include a recommended finding of fact.~~

~~(iii) A petition that challenges a conclusion of law must cite the ((appropriate)) statute, rule, ((or case involved)) case law, or other legal authority on which the petitioner relies to support its challenge and should include a recommended conclusion of law.~~

~~(iv) A petition that challenges the summary or discussion portion of an initial order must include a statement showing the legal or factual justification for the challenge, and a statement of how the asserted defect affects the findings of fact, the conclusions of law, and the ultimate decision. ((Petitions for administrative review must not exceed sixty pages, without prior permission from the commission.~~

~~(4) **Answers.**~~

~~((a)) (c) **Responses.**~~

~~(i) Who may ((answer)) respond. Any party to the adjudication may ((answer)) respond to another party's petition for administrative review.~~

~~((b)) (ii) **Filing and service.** ((An answer)) A response to a petition for administrative review must be filed and served within ten days after the petitioner files and serves its petition ((is filed. The commission may designate a different time for filing answers to petitions.~~

~~((c)) unless the commission establishes a different deadline.~~

~~(iii) **Challenge to order in ((answer)) response.** A party ((who)) that did not ((file a)) petition for administrative review of an initial order may challenge the order or portions of the order in its ((answer)) response to the petition of another party if that challenge is in response, or otherwise reasonably related, to the issues raised in the petition.~~

~~((5))~~ (d) Reply.

~~((a))~~ (i) By right. A party has the right to reply to new challenges to the order that are ~~((raised under subsection (e) of this section))~~ included in another party's response as authorized in (c)(iii) of this subsection.

~~((b))~~ (ii) By leave of commission. A party otherwise has no right to reply to ~~((an answer))~~ a response, but may petition for leave to reply ~~((, citing new matters))~~. Any such petition must cite new issues raised in the ((answer and stating why those matters were not)) response, state why the petitioner could not have reasonably anticipated those issues, and explain why a reply is necessary. The petitioner ((may)) should attach a reply to the petition for leave to accept the reply.

~~((c))~~ (iii) Timing. ~~((A))~~ The petitioner must file its reply ((under (a) of this subsection,)) or a petition for leave to reply ((under (b) of this subsection, must be filed)) no later than five days after ((service of the answer)) the respondent submits its response. The commission may extend the time ~~((upon))~~ on a showing of good cause.

~~((6))~~ (c) Oral argument. ~~((The commission may hear oral argument on a petition for administrative review at a time and place the commission designates by notice to all parties to the proceeding.))~~ A party ~~((who desires to present oral argument))~~ may request oral argument ~~((, stating why))~~ before the commissioners, but any such request must demonstrate that oral argument is necessary to assist the commission in making its decision ~~((and why))~~ on the petition for administrative review and that the written presentations ~~((will be))~~ are insufficient.

~~((7))~~ Initial order finality.

(a) The initial order of an administrative law judge will become a final order of the commission unless, within the time for filing petitions for administrative review:

(i) A party petitions for administrative review, or receives an extension of time to file a petition for administrative review and files within the extended period; or

(ii) The commission serves a notice to the parties of its intention to review the initial order.

(b) Parties who seek finality of an initial order before the end of the petition period may waive the right to seek administrative review. If all parties waive review, the order will become final on the day the commission declines to exercise administrative review or when the time for exercising review ends. If the commission exercises administrative review, all parties may state objections and responses as permitted in subsection (8) of this section.

(c) An initial order that becomes final by operation of law does not reflect a decision by the commissioners and has no precedential value. Such orders, if cited, must be identified as ALJ orders.

~~((8))~~ Designation for) (3) Motion for clarification of initial order. Any party that does not seek to change the substantive outcome or reasoning of an initial order may file a motion for clarification of that order within five days after the commission serves the order.

(a) Purpose. The purpose of a motion for clarification of an initial order is to correct obvious or ministerial error without the need for parties to request administrative review.

(b) Response. No party may file a response to a motion for clarification unless requested by the commission.

(c) Effect. Filing a motion for clarification does not automatically toll the time for filing a petition for administrative review or for compliance with the initial order. A party may request in its motion for clarification that the commission toll or otherwise extend the time for filing a petition for administrative review or for complying with the initial order. The party making the request must demonstrate good cause for the extension.

(d) Order denying or granting clarification. The presiding administrative law judge will enter an order either denying the motion or granting the motion and providing clarification within five days after the party files the motion. A party may seek administrative review of an order granting or denying clarification either:

(i) In a petition for administrative review of that order filed by the deadline for filing a petition for administrative review of the original initial order; or

(ii) As part of the party's petition for administrative review of the original initial order.

(4) Commission-initiated review. The commission may ~~((designate))~~ initiate review of an initial order ~~((for administrative review))~~ on the commission's own motion by serving ~~((on the parties))~~ a notice ~~((of its intention))~~ that the commissioners intend to review the order. The notice will ~~((identify the docket number and the title of the proceeding, a time period within which the parties may state objections to the initial order, and a time to respond to others))~~ establish a schedule for parties to state their positions on the initial order and make supporting arguments. The notice may invite the parties to address specific issues relating to the initial order.

~~((9))~~ (5) Administrative law judge. An administrative law judge other than the administrative law judge who entered the initial order will assist the commissioners to enter a final order on review of the initial order.

(6) Final order. The commission may ~~((by))~~ enter a final order that adopts, ~~((modify))~~ modifies, or rejects an initial order ~~((after considering the pleadings and the record)).~~ Alternatively, the commission may remand the matter for further proceedings with instructions to the presiding officer.

~~((10))~~ (7) Judicial review. The statutory time for filing a petition for judicial review commences when the commission serves its final order ~~((,))~~ or when an initial order becomes final under RCW 80.01.060(3) and subsection ~~((7))~~ (1) of this section ~~((, or when a petition for reconsideration is deemed denied as a matter of law, as provided in RCW 34.05.470. However,))~~; provided that, if a party timely files a petition for reconsideration of the final order ~~((,))~~ and complies with the commission's procedural rules governing reconsideration, the time for filing a petition for judicial review ~~((does not))~~ commences ~~((until))~~ on the date on which the ~~((agency))~~ commission serves an order ~~((disposing of))~~ granting or denying the petition for reconsideration, or the date on which the petition is deemed denied as a matter of law, as provided in RCW 34.05.470.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-830 Motion to reopen the record prior to entry of a final order. ~~((Any))~~ **(1) Record closure.** The evidentiary record in an adjudication closes at the conclusion of the last day of hearing unless the commission rules otherwise; except that the evidentiary record will also include any exhibit containing public comments and responses to bench requests the commission receives after the hearings conclude.

(2) Reopening the record. A party may file a motion to reopen the evidentiary record at any time after the record closes ~~((of the record))~~ and before ~~((entry of))~~ the commission enters a final order. A party seeking to present additional evidence after the commission has entered a final order must submit a petition for rehearing pursuant to WAC 480-07-870. The commission may reopen the record in a proceeding on its own motion. ~~((In uncontested proceedings, the commission may exercise its discretion to reopen the record to allow receipt of written evidence when otherwise lawful. In contested proceedings.))~~

(3) Required showing. The commission may reopen the record to allow receipt of evidence that is essential to a decision and that was unavailable and not reasonably discoverable with due diligence at the time of the hearing or for any other good and sufficient cause. A motion to reopen the record must include the evidence the party proposes to add to the record and must demonstrate that the evidence meets this standard.

(4) Responses. The commission will give ~~((all))~~ the other parties an opportunity to respond to ~~((any))~~ a motion to reopen the record, including to the evidence ~~((received after the record is closed))~~ the moving party seeks to add to the record, unless the commission determines that it can rule on the motion without hearing from the other parties consistent with the requirements of due process.

(5) Ruling. The commission ~~((may enter a))~~ will rule on a motion to reopen the record in the final order ~~((or))~~ unless the commission determines that a separate order is warranted. If the commission grants the motion in a separate order, the commission may return the matter to the presiding officer for further ~~((consideration))~~ proceedings, including ~~((further))~~ additional evidentiary hearings or other process when appropriate.

(6) Compliance with statutory deadline. The commission may deny a motion to reopen the record in any proceeding in which the commission must enter a final order within a statutory time frame or by a statutory deadline if the commission determines that it reasonably could not consider the additional evidence offered and enter a final order within the statutory time frame or by the statutory deadline.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-835 Clarification of final order by motion. **(1) Motion~~((—when appropriate))~~ for clarification.** Any party ~~((who does not seek to change the outcome with respect to an issue may file))~~ may request that the commission clarify a final order by filing a motion for clarification ~~((of a final order))~~ within ten days after the commission

serves the order ~~((is served))~~. The purpose of such a motion ~~((for clarification))~~ is to ~~((ask))~~ ensure that the parties know their rights and responsibilities under the final order. An appropriate motion ~~((of))~~ requests that the commission modify the final order or take other action to accomplish one or more of the following goals:

(a) Clarify the meaning of ~~((an))~~, or requirements in, the order ~~((so that compliance may be enhanced.))~~ so that ~~((any))~~ the parties can accurately prepare compliance filings ~~((may be accurately prepared and presented, to suggest));~~

(b) Make technical changes ~~((that may be required))~~ to ~~((correct))~~ reconcile the application of principle to data, resolve inconsistencies, or ~~((to))~~ correct patent error without the need for parties to request reconsideration and without delaying post-order compliance ~~((—A motion for clarification may also request that obvious));~~ or

(c) Correct typographical or other ministerial errors ~~((in orders be corrected by letter from the secretary or by subsequent order, consistent with WAC 480-07-875)).~~

(2) Motions~~((—when not appropriate))~~ that do not seek clarification. ~~((H))~~ A party may not file a motion for clarification that seeks to change an outcome with respect to one or more issues resolved by a final order, or that challenges a finding of fact or conclusion of law stated in the order ~~((, it may not do so by motion for clarification, but must file)).~~ A party seeking such commission action must submit a petition for reconsideration pursuant to WAC 480-07-850.

(3) Response. No party may file a response to a motion for clarification unless ~~((requested by))~~ the commission requests a response.

(4) No tolling. Filing a ~~((petition))~~ motion for clarification ~~((tolls the time for judicial review but))~~ does not toll the time for filing a petition for reconsideration of, or compliance with, the final order of which the party seeks clarification ~~((is sought)).~~ If the commission enters an order that modifies the final order, the subsequent order will clarify the deadlines for compliance and will be a final order for purposes of further commission or judicial review.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-840 Clarification of a final order by conference. After the commission enters a final order, the commission may schedule an order clarification conference on its own motion or at a party's request. The commissioners may ~~((personally))~~ attend the conference or may designate one or more persons to attend on their behalf. The commission will determine whether it will record or transcribe an order clarification conference ~~((will be recorded)).~~

(1) Purpose. The purpose of an order clarification conference is to clarify ~~((the meaning of a))~~ the final order when parties disagree about ~~((the order's))~~ its meaning or requirements. ~~((Parties to))~~ An order clarification conference ~~((may ask for clarification of the meaning of an order))~~ provides the parties and the commission with the opportunity to:

(a) Explore and resolve any ~~((barriers to compliance;—~~

(b) Ensure that any compliance filing can be accurately prepared and presented;

~~(e) Propose~~) disagreements or lack of understanding about the meaning of, or requirements in, the final order so that parties can accurately prepare any compliance filings; or

~~(b) Identify and make~~ technical changes ~~((that may be required to correct))~~ to reconcile the application of principle to data~~((; or~~

~~(d))~~, resolve inconsistencies, or correct patent error.

~~(The)~~ **(2) Limitation.** An order clarification conference is not a forum for discussing or challenging the evidentiary, legal, or policy decisions ~~((expressed))~~ in the order. Parties may pursue those remedies through a petition for reconsideration or other means.

~~((2))~~ **(3) Effect.**

~~(a)~~ An order clarification conference ~~((will))~~ does not stay the ((effect)) effectiveness of an order, the ((time)) deadlines for compliance, or the time ((for securing post-order review, or the time for petitioning for)) frames for petitioning for further commission or judicial review((, unless)). If as a result of the conference ((results in a supplemental commission order, which then becomes)), the commission enters an order that modifies the final order, the subsequent order will clarify the deadlines for compliance and will be a final order ((subject to)) for purposes of further commission or judicial review.

~~(b)~~ An order clarification conference does not constitute a formal interpretation of an order. The final order that is the subject of an order clarification conference will remain the sole expression of the commission's decision unless ~~((supplemented through an additional))~~ the commission modifies that order in a subsequent order.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-850 Reconsideration of a final order ((by petition)). (1) **Petition**~~((- timing))~~. Any party may petition for reconsideration of a final order within ten days after the commission serves the order ((is served)).

~~(a) Purpose.~~ The purpose of a petition for reconsideration is to request that the commission change the outcome with respect to one or more ~~((issues determined by the commission's))~~ determinations in a final order.

~~((2) Petition--)~~ ~~(b) Contents.~~ ~~((The petitioner))~~ A petition for reconsideration must ((clearly)):

~~(i) Identify each portion of the challenged order ((that it))~~ the petitioner contends is erroneous or incomplete((, must));

~~(ii) Site those portions of the record and each ((law or))~~ statute, commission rule ((that)), or other law on which the petitioner relies ((on)) to support its petition((;)) and ((must))

~~(iii) Present brief argument in support of ((its petition))~~ the relief the petitioner requests.

~~((3) Answer--)~~ ~~(c) Response.~~ No party may file ~~((an answer))~~ a response to a petition for reconsideration unless ((requested by)) the commission((-- If the commission requests answers to a petition for reconsideration, it will issue a notice stating the date by which answers must be filed and)) authorizes a response in a notice establishing the deadline for submitting responses, which may also establish the date by which the commission intends to enter an order resolving the petition. The commission will not grant a petition for recon-

sideration without providing other parties an opportunity to respond to the petition.

~~((4))~~ ~~(d) Oral argument.~~ The commission will not hear oral argument on a petition for reconsideration unless the commission determines ~~((on its own motion))~~ in its discretion that oral argument ((is required)) will assist the commission in resolving the petition.

~~((5))~~ **(2) Disposition.** A petition for reconsideration is deemed denied twenty days after the date the petition is filed, unless the commission either:

(a) Enters an order resolving the petition; or

(b) Serves the parties with a written notice specifying the date by which ~~((#))~~ the commission will act on the petition.

~~((6))~~ **(3) Action.** If the commission grants a petition for reconsideration, the commission may modify its prior order or take other appropriate action. If the commission denies the petition, the commission will take no further action ((will be taken)) in the matter with respect to the final order. No party may petition for reconsideration of an order on reconsideration.

~~((7))~~ **(4) Stay.** Filing a petition for reconsideration does not automatically stay the effect of an order or serve as a request for a stay. A party may request that the commission stay the effectiveness of an order pending reconsideration by filing a petition for stay pursuant to WAC 480-07-860.

~~((8))~~ **(5) Judicial review.** Filing a petition for reconsideration is not a prerequisite for seeking judicial review of a commission final order. If a party timely files a proper petition for reconsideration ((is timely filed)), the time for filing a petition for judicial review does not commence until the ~~((agency))~~ commission serves an order disposing of the petition for reconsideration, or the date on which the petition is deemed denied as a matter of law, as provided in RCW 34.05.470. An order denying reconsideration, or a notice ((of the time for disposition under)) specifying the date by which the commission will act on a petition for reconsideration pursuant to subsection ((5)) (2)(b) of this section, is not subject to judicial review.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-860 Stay. Any party may petition the commission to stay ((of)) the effectiveness of a final order within ten days after ((its service)) the commission serves that order, unless the order or applicable statute provides otherwise ((provided by statute or stated in the final order)). The commission may stay the effect of a final order on its own initiative. ~~((The effect of a final order is not automatically stayed when a party files a motion for clarification, a petition for reconsideration, or a))~~

(1) Petition. A petition for stay must cite those portions of the record and statute, commission rule, or other law on which the petitioner relies to support its petition and must present brief argument in support of the relief the petitioner requests.

(2) Response. No party may file a response to a petition for stay unless the commission authorizes a response in a notice establishing the deadline for filing responses, which

may also establish the date by which the commission intends to enter an order resolving the petition.

(3) **Disposition.** A petition for stay is deemed denied twenty days after the date the petitioner submits the petition unless the commission either:

(a) Enters an order resolving the petition; or

(b) Serves the parties with a written notice specifying the date by which the commission will act on the petition.

(4) **Effect.** Filing a petition for ~~((rehearing))~~ stay does not automatically stay the effect of a final order or the deadline for filing a petition for reconsideration. Commission action is required to stay the effect of a final order.

(5) **Reconsideration or judicial review.** No party may request reconsideration of a commission determination denying a petition for stay. Such a determination also is not subject to judicial review.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-870 Rehearing. Any person affected by a commission final order may ~~((file a))~~ petition for rehearing ~~((Public service companies may seek rehearing under RCW 80.04.200 or 81.04.200))~~ of that order.

(1) **Petition.** A petition for rehearing must set forth sufficient grounds for rehearing the commission order and must include substantial evidence or an offer of proof in support of the requested relief. Sufficient grounds for rehearing consist of the following:

(a) Changed conditions since the commission entered the order;

(b) Harm to the petitioner resulting from the order that the commission did not consider or anticipate when it entered the order;

(c) An effect of the order that the commission or the petitioner did not contemplate or intend; or

(d) Any good and sufficient cause that the commission did not consider or determine in the order.

(2) **Filing and service.** The petitioner must file the petition in the docket in which the commission entered the final order and must serve the petition on all parties and persons included in the master service list for that docket.

(3) **Responses.** Any party in the original proceeding may file a response to the petition within twenty days after the petitioner serves the petition unless the commission establishes a different deadline by notice.

(4) **Process.** Pursuant to RCW 80.04.200 or 81.04.200, if the petitioner is a public service company and files its petition either no earlier than two years after the effective date of the commission's final order or no earlier than six months after the effective date of a final order that a court has not reviewed and with which the company is in compliance, the commission will conduct a prehearing conference to establish a procedural schedule for commission consideration of the petition. In all other circumstances, the commission will determine whether to accept the petition and, if so, the proceedings the commission will undertake to consider the petition.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-875 Amendment, rescission, or correction of order. (1) **Amendment or rescission.** The commission may propose, or may act in response to a petition, to alter, amend, or rescind any order that ~~((#))~~ the commission has entered ~~((s))~~. Any such petition must comply with the requirements in WAC 480-07-870 for a petition for rehearing. The commission may take the action it has proposed or grant the petition only after providing:

(a) Notice of the petition or proposed commission action to the affected public service company or companies ~~((affected))~~ and to all parties in the underlying proceeding ~~((and after allowing))~~; and

(b) An opportunity for parties to respond in writing or at a hearing ~~((as in the case of complaints. Any order altering, amending, or rescinding a prior order will have the same effect as any other final order when served upon the public service company or companies affected))~~ consistent with due process.

(2) **Correction.** The commission may act on its own initiative or on the motion of any party to correct obvious or ministerial errors in orders. The commission may enter a corrected order or ~~((effect))~~ make any corrections to the order by notice or letter ~~((The commission may direct the secretary to effect any corrections by notice or letter))~~ without prior notice or opportunity to respond unless due process requires otherwise. The time for any available ~~((post-hearing))~~ review of the corrections begins ~~((with the service of the correction, as to the matter corrected))~~ when the commission serves the corrected order, notice, or letter.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-880 Compliance filings~~((s subsequent filings, reporting requirement))~~. (1) ~~((Compliance filing, compliance order.~~ When the commission enters a final order that authorizes or requires a party to make a filing to implement specific terms of the order with respect to the issues resolved in an adjudicative proceeding by implementing a precisely defined result, the filing is a "compliance filing." For example, a commission final order in a general rate proceeding may authorize or require a party to file original or substitute tariff sheets to implement the terms of the final order. A compliance filing is made under the docket number of the final order to which it relates. A compliance order is an order approving or rejecting a compliance filing.

(2) **Subsequent filing.** When the commission enters a final order that authorizes or requires a party to make a filing to implement general instructions (e.g., the formulation of policy, or filing of tariffs other than to implement a precisely defined result), the filing initiates a new proceeding that will be assigned a new docket number, and the filing is deemed a "subsequent filing." For example, a commission final order in a complaint proceeding may authorize or require a party to make a tariff filing by a date certain.

(3) **Reporting requirement.** The commission may enter a final order that requires a party to report periodically to the commission with respect to designated subject matter. The

reports must be filed under the docket number of the proceeding in which the final order is entered, unless otherwise specified in the order establishing the requirement or by later letter from the secretary of the commission.) **Definition.** A compliance filing is a party's submission in response to a final order that authorizes or requires that party to implement specific terms of that order. A compliance filing may be a single submission (e.g., a revised tariff) or multiple submissions (e.g., periodic reports). A party must strictly limit the scope of its compliance filing to the requirements of the final order to which it relates. A party's filing in response to general commission direction in an order (e.g., filing a new or revised tariff other than the tariffs that initiated the proceeding) is not a compliance filing but is a subsequent filing governed by WAC 480-07-885.

(2) **Filing and effective dates.** The commission will state in its final order authorizing or requiring a compliance filing the date by which the party must make the compliance filing and the effective date that should appear on any tariff sheets that are required as part of a compliance filing. The commission may delegate to the secretary, by written authorization in individual proceedings, the authority to take appropriate action with respect to a compliance filing. A compliance filing does not become effective automatically on its stated effective date. The commission must approve or accept any compliance filing before it can be effective.

(3) **Where to make filings.** Parties must make compliance filings in the docket of the final order to which they relate unless the commission has required otherwise in that order. Parties must file and serve such filings consistent with the filing and service requirements in that docket. A party making a compliance filing that includes a tariff also must provide work papers to the other parties that demonstrate the derivation of the proposed rates or charges in that tariff.

(4) **Responses.** Commission staff must, and any other party in the docket may, file a response to the compliance filing within five business days from the date it is filed or by such other deadline as the commission may establish. Any such response must be limited to the issue of whether the filing complies with the commission order. Except as otherwise provided in this section, commission staff must review the filing to determine its compliance with the order and, at a minimum, file a response in the form of a letter informing the commission of the results of that review.

(5) **No dispute.** If no party disputes the filing's compliance with the final order, the commission may issue a notice or letter that the filing appears to comply with the order and that allows the filing to become effective.

(6) **Dispute.** If a party disputes the filing's compliance with the final order, the commission will provide an opportunity to respond. The commission may then enter an order:

(a) Approving the filing;

(b) Rejecting the filing, in whole or in part, for failure to comply with the final order and requiring a revised compliance filing; or

(c) Establishing additional process for commission consideration of the filing.

(7) **Subsequent discovery of noncompliance.** If the commission allows a compliance filing to become effective but later discovers that the filing does not fully comply with

the order authorizing or requiring the filing, the commission may take any necessary and lawful steps to secure full compliance with that order. The commission's erroneous acceptance of a compliance filing does not validate the noncompliant elements of the filing or modify the final order requiring that filing.

(8) **Reports.** The commission may enter an order that requires a party to report periodically to the commission with respect to designated subject matter. The reports must be submitted under the docket number of the proceeding in which the commission entered the order unless the order specifies otherwise or the commission establishes a different requirement in a subsequent order or notice. Such compliance filings have no stated effective date, do not become effective by operation of law, and require no commission action in response to the filing.

(9) **Monetary payments.** An order may require a party to pay monetary penalties, either in a single lump sum or periodically over time. No party should file a response to any timely payment made in compliance with the order, and the commission generally will not issue an acknowledgment or approval in response to the payment.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-885 Subsequent filings~~((—Filing requirements; timing; commission action))~~. When the commission enters a final order that authorizes or requires a party to make a subsequent filing to implement general instructions in that order (e.g., the submission of tariffs other than revisions to the tariffs that initiated the proceeding), the filing initiates a new proceeding to which the commission will assign a new docket number.

(1) **Filing and service requirements.**

(a) ~~((A person who makes))~~ In the cover letter accompanying a subsequent filing, the party must ~~((provide a cover letter that identifies))~~ request a new docket and identify the order and the docket in which the commission required the subsequent filing. ~~((The commission will assign a new docket number to a subsequent filing.))~~

(b) A ~~((person who makes a))~~ subsequent filing that includes tariff sheets must comply with all pertinent requirements for tariff filings of the industry, including the required statutory notice period, unless the commission authorizes the subsequent filing to become effective on less than statutory notice.

(c) A person who makes a subsequent filing must serve a copy of the filing on all parties to the proceeding in which the commission entered the final order authorizing or requiring the filing ~~((was authorized or required))~~. Any party that believes the subsequent filing is not in compliance with the commission's final order in that proceeding must file its objection in both the original and new dockets within ten days of the service date of the subsequent filing unless the commission establishes a different deadline.

(2) **Timing.** A final order that authorizes or requires a subsequent filing may state the date by which the party must make the subsequent filing ~~((must be made))~~. If ~~((no))~~ the final order does not specify a date for the subsequent filing

~~((is specified in the final order)), the commission may establish the date by subsequent order, notice, or ((by)) letter ((from the commission secretary)).~~

(3) **Commission action ~~((on subsequent filing))~~.** The commission generally will act on a subsequent filing that includes tariff sheets in the same manner that it would act on an original tariff filing of the industry, subject to any additional requirements in the final order that authorized or required that filing. If a party to the original proceeding objects to the subsequent filing as not in compliance with the final order in that proceeding, the commission also may take additional action in that docket.

AMENDATORY SECTION (Amending WSR 08-18-012, filed 8/22/08, effective 9/22/08)

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))~~ open meetings per month~~((, usually on Thursday))~~ on alternate Thursdays at 9:30 a.m. in the commission's office in Olympia, Washington. The specific time and place of each ~~((business))~~ open meeting are published, as required, in the *Washington State Register* and on the commission's ~~((internet))~~ web site. The commission may cancel ~~((a))~~ an open meeting or change the time or place of ~~((a))~~ an open meeting and will publish a notice of these changes on its web site and in the *Washington State Register* for distribution at least twenty days prior to the rescheduled meeting date.

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

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

(4) **Agenda.** The commission will ~~((distribute))~~ publish an agenda for each regular ((business)) open meeting at least two business days prior to the meeting. The commission ((will make its best effort to compile and publish a complete agenda. It may amend its)) also may publish an addendum or otherwise amend the agenda after ((it is published)) publishing it and may take up matters that do not appear on ((its)) the published agenda consistent with notice and due process requirements. The commission posts the agenda and any addendum ((are posted to the commission's internet)) on its web site. ((The commission will provide a copy of the agenda via U.S. mail on request.))

(a) ~~((⁽²⁾))~~ Discussion(⁽²⁾) agenda. The discussion portion of the agenda includes items that are scheduled for discussion and action by the commissioners. This part of the agenda is further divided into ~~((⁽²⁾))~~ utilities(⁽²⁾) and (⁽²⁾) transportation(⁽²⁾) sections.

(b) ~~((⁽²⁾))~~ No-action(⁽²⁾) agenda. The no-action portion of the agenda includes items that appear to be noncontroversial and, by law, may take effect without action by the commission. The commission will move any item on the no-action portion of the agenda ((will be moved)) to the discussion portion of the agenda at the request of any commissioner((-The commission)) or other person and may take such action on the item as ((#)) the commission deems appropriate.

(c) ~~((⁽²⁾))~~ Consent(⁽²⁾) agenda. The consent portion of the agenda includes items that appear to be noncontroversial and, by law, require action by the commission to take effect. The commission will act on the items on the consent portion of the agenda by a single motion and a single vote of the commissioners. The commission will move any item on the consent portion of the agenda ((will be moved)) to the discussion portion of the 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)) or other person and may take such action on the item as the commission deems appropriate.

(5) **Deadlines and schedules.**

(a) The commission generally schedules items for consideration at the last regular ~~((business))~~ open meeting before the item would take effect by operation of law. The commission generally ~~((schedules))~~ includes items without a stated effective date~~((, such as petitions, for consideration))~~ on the agenda for the regular open meeting scheduled thirty days or more after the commission receives a complete filing.

(b) ~~((#))~~ A company ((makes a filing and)) that requests ((action by the commission before the)) a filing become effective on less than statutory or other 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 seven business days before the))~~ must make that request and a complete filing at least seven business days prior to the next regular open meeting to have the commission consider the filing at that meeting. The commission generally will schedule items filed less than seven business days before ((a)) an open meeting ((will generally be scheduled)) for the second ((business)) open business meeting after the filing.

(c) All written comments in response to an open meeting item ~~((must be filed with))~~ should be submitted to the commission at least three business days in advance of the meeting to enable the commissioners to consider those comments during the meeting. Persons are not required to ~~((file))~~ submit 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.

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

(6) **Staff contact.** The commission will designate a staff member to analyze and present a recommendation to the commissioners for each item on the discussion portion of the 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)). The agenda item description will include the staff person's name and contact information. Persons interested in ((open meeting agenda)) these items may discuss them with the designated staff((-subject to time availability)) person prior to the open meeting.

(7) **Public comment.** The commission will provide an opportunity at the beginning of each ~~((business))~~ open meeting for members of the public to request that items on the consent or no-action ~~((sections))~~ portions of the agenda be

moved to the discussion (~~(section)~~) portion. The commission will provide an opportunity for public comment on each item on the discussion portion of the agenda (~~(item)~~) before taking action on that item.

(8) **Orders.** The commission may direct the executive 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 WSR 06-17-126, filed 8/21/06, effective 9/21/06)

WAC 480-07-903 Delegation of authority to the executive secretary. (1) **General provisions.**

(a) The working title of the secretary position authorized in RCW 80.01.030 is ~~((⁽²⁾))~~ executive secretary. ~~((⁽²⁾))~~

(b) The commission delegates authority to the executive secretary as set out in this section and WAC 480-07-904 and 480-07-905, pursuant to RCW 80.01.030 and subject to oversight and direction by a majority of the commissioners.

(c) The commission may also delegate functions to the executive secretary by order.

(d) When the executive secretary is absent or otherwise unavailable to perform authorized duties, the commission authorizes the executive secretary's designee to perform the duties on behalf of the executive secretary.

(2) **General delegation of authority.** The commission authorizes the executive secretary to supervise the general administrative functions of the agency, including without limitation the following specific tasks.

(a) *Filings, correspondence, and documents.* The executive secretary will sign commission documents to be filed with the code reviser, courts, or other agencies or governmental entities. The executive secretary will sign other official commission correspondence and filings that the commissioners do not sign. The executive secretary will sign all permits and other official commission documents unless the commission has delegated signing authority to other commission personnel.

(b) *Appointing authority.* The executive secretary is the ~~((⁽²⁾))~~ appointing authority ~~((⁽²⁾))~~ for the commission and has authority over appointment, separation, and discipline of commission employees. This authority includes, but is not limited to, appointments, terminations, reductions in force, dismissals, suspensions, and demotions pursuant to WAC 356-30-007 and 356-34-011.

(c) *Grievance procedure.* The commission authorizes the executive secretary to hear bargaining unit employee grievances and enter a final agency decision. The commission reserves the right to hear individual grievances or to select another designee to hear grievances on a case-by-case basis.

(d) *Rejection of defective filings.* The executive secretary will sign orders or letters rejecting tariffs, contracts, applications, or other filings that do not comply with statutory requirements or commission rules regarding effective dates,

required supporting documents, or other standards for a complete filing.

(e) *Penalty assessment challenges and mitigation.* Unless the commission refers the matter to the administrative law division for hearing, the executive secretary will sign orders or letters:

(i) *Denying or sustaining, in whole or in part, challenges to penalties the director of the administrative law division has assessed on delegated authority from the commission pursuant to WAC 480-07-915; or*

(ii) *Granting or denying, in whole or in part, mitigation of such penalties.*

~~(3) *(Authority to resolve delegated matters. Matters delegated to the executive secretary by rule are specified in this section and in WAC 480-07-904 and 480-07-905.)*~~ **Deferral to the commissioners.** The executive secretary may exercise discretion to defer any delegated matter to the commissioners for decision.

~~((4) *Authority to sign discretionary orders implementing commission decisions.*~~

~~(a) *Commissioner direction.* A majority of the commissioners may direct the executive secretary to sign an order or decision implementing a decision made by a majority of the commissioners.~~

~~(b) *Commissioner unavailability.* When a majority of the commissioners are unavailable to sign and enter decisions and orders of the commission, the executive secretary is authorized to do so without express direction only when:~~

~~(i) A majority of the commissioners has previously reached a decision on the merits of the particular matter; and~~

~~(ii) In the executive secretary's judgment, in consultation with any available commissioner, entry of the order cannot be deferred pending commissioner availability.~~

~~(5) *Commission review.* Commission review of decisions delegated under RCW 80.01.030 is *de novo*.)~~

AMENDATORY SECTION (Amending WSR 08-18-012, filed 8/22/08, effective 9/22/08)

WAC 480-07-904 Delegation of authority ~~((to the executive secretary))~~ to decide certain matters. (1) **Delegation by order.** Except as expressly provided in these rules, the commission will establish by order the matters it delegates ~~((the following matters))~~ to the executive secretary or other authorized commission personnel for decision.

~~((The executive secretary's))~~ (2) **Effect.** A decision made on delegated authority shall take effect immediately on entry of an order or letter or on a later date specified in the order or letter, without prior notice. The executive secretary may set any particular matter for commission decision ~~((by the commission))~~ through ~~((either))~~ the open public meeting process ~~((or an administrative process the commission otherwise employs)),~~ adjudicative or brief adjudicative proceeding, or other established commission process. Upon request, the commission will review the matter under subsection ~~((3))~~ (4) 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 high-way-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) 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))~~ **(3) Notice.** The commission will notify the affected company and post on ((its internet)) the commission's web site for at least fourteen days a listing of all matters ((decided pursuant to subsection (1) of this section)) the executive secretary or other authorized personnel decided on delegated authority, showing the docket number, date of entry of decision, company name, and ((last date)) deadline for filing a request for commission 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** **(4) Commission 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) Except as provided in WAC 480-07-905, any person directly affected by a delegated determination may request commission review of that determination. The person must file that request 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))~~ the commission serves the order and posts it on the commission's web site. The commission will consider the request using the same process applicable to commission review of initial orders set forth in WAC 480-07-825.

AMENDATORY SECTION (Amending WSR 08-18-012, filed 8/22/08, effective 9/22/08)

WAC 480-07-905 Delegation of authority ((to executive secretary)) to enter *ex parte* orders. (1) Except as expressly provided elsewhere in these rules, the commission will authorize((s)) by order the executive secretary or other authorized personnel to enter ((the following)) *ex parte* orders or letters in the name of the commission in nonadjudicative matters. The commission will maintain on its web site a list of all nonadjudicative matters the commission has delegated to the executive secretary or other authorized personnel and the personnel to whom the commission delegated that authority.

(2) The commission will notify the affected company and post on its web site notice of ((the order will be published, and responses)) all orders or letters entered on delegated authority. Persons affected by the order or letter who wish to respond must follow the procedure ((outlined,)) in WAC 480-07-904 (2) and (3), except that carriers seeking commission review of orders or letters suspending or canceling a permit (e.g., for failure to maintain evidence of required insurance coverage((, or other circumstance specified in subsections below))), must request ((an adjudicative)) a hearing or brief adjudicative proceeding ((under)) pursuant to WAC 480-07-610.

~~((1))~~ **Household goods carriers, chapter 480-15 WAC.**

~~(a) Orders granting authority and permits for permanent, provisional or temporary intrastate transportation of household goods.~~

~~(b) Orders and permits authorizing or reflecting change of a carrier's permit name, corporate name, trade name, or addition of a trade name.~~

~~(c) Orders authorizing voluntary suspension of permit authority if the carrier satisfies the requirements of chapter 480-15 WAC.~~

~~(d) Orders reinstating voluntarily suspended permit authority if the carrier satisfies the requirements of chapter 480-15 WAC.~~

~~(e) Orders permanently canceling permit authority or dismissing application by request of carrier or applicant.~~

~~(f) Orders suspending 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 by requesting an adjudicative or brief adjudicative proceeding.~~

~~(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.~~

~~(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.~~

~~(i) Orders reinstating previously canceled permit authority if the carrier satisfies the requirements of chapter 480-15 WAC.~~

~~(j) Orders rejecting or denying applications for temporary authority if WAC 480-15-285 applies.~~

~~(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 unprotested 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 unprotested 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 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.~~

~~(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.~~

~~(e) 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.~~

~~(c) 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.~~

~~(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.~~

~~**(6) Auto transportation companies, chapter 81.68 RCW.**~~

~~(a) Orders and permits authorizing intrastate, interstate transportation of passengers involving unopposed 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.~~

~~(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.~~

~~**(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.)~~

AMENDATORY SECTION (Amending WSR 06-16-053, filed 7/27/06, effective 8/27/06)

WAC 480-07-910 Informal complaints. (1) **How to make an informal complaint.** Any person may make an informal complaint to the commission about any business ~~((that))~~ or entity the commission regulates or about the commission's operations. A person may make an informal complaint by telephone, correspondence, ~~((fax transmission))~~ or email(s) or by using the complaint form available on the commission's web site.

(2) **Contents.** An informal complaint must identify the business ~~((or person to whom))~~, entity, or operations to which the complaint pertains. An informal complaint should:

(a) Present all facts that are needed for the commission to understand the nature of, and reason(s) for, the complaint;

(b) Describe the acts or omissions that led to the complaint, with all relevant dates; and

(c) Cite all relevant statutes or rules, if the person who files the complaint knows them.

(3) **Commission response; result.** Commission employees assigned to assist consumers may discuss an informal complaint with the affected persons ~~((by correspondence or otherwise))~~. The commission will investigate the complaint to determine if there are violations of any applicable rule or law and if so, will work with the parties to ensure compliance. The commission encourages the informal resolution of disputes whenever possible. An informal complaint will not result in a hearing or ~~((in))~~ an order ~~((that compels a person to do something or forbids a person from doing something))~~.

(4) **Uniform Mediation Act not applicable.** The Uniform Mediation Act ~~((chapter 172, Laws of 2005, codified as))~~, chapter 7.07 RCW ~~((is))~~, does not apply to the commission's informal complaint resolution process.

(5) **Filing of formal complaint regarding subject of informal complaint.** Making an informal complaint does not prevent any party from filing a formal complaint as provided in WAC 480-07-305. The commission also may initiate a formal complaint proceeding on its own initiative. The commission will stop processing an informal complaint when a person filing an informal complaint files a formal complaint or the commission initiates a formal complaint proceeding.

NEW SECTION

WAC 480-07-915 Penalty assessments. (1) **Delegation.** The commission delegates to the director of the admin-

istrative law division, or another administrative law judge the director designates, the authority to assess penalties pursuant to RCW 80.04.405, 81.04.405, 81.04.530, 19.122.150, or any other statutes that authorize the commission to assess penalties outside of an adjudicative proceeding for violations of any commission order or any statute, rule, or regulation within the commission's jurisdiction except as provided in WAC 480-07-917.

(2) **Notice.** At the direction of the director of the administrative law division, the commission will serve a notice on the person assessed a penalty describing the violation with reasonable particularity, specifying the amount of the penalty, and advising the person that the penalty is due and payable.

(3) **Response.** Within fifteen days of receiving the notice, the person subject to the penalty assessment must take one of the following actions:

(a) *Pay the assessed penalty.* The penalized person may admit the violation and pay the full amount of the penalty by the due date.

(b) *Contest the violation.* The penalized person may submit written materials to contest the penalty assessment and may request that the commission make a determination based on those materials or may request the opportunity to present facts described in those materials through evidence at a hearing.

(c) *Request mitigation.* The penalized person may admit the violation but submit written materials in support of a request to reduce the amount of the penalty. The penalized person may request mitigation based solely on the written materials or may request the opportunity to present the facts described in those materials through evidence at a hearing.

(d) *Accept conditions.* If the commission offers to suspend any or all of the penalty based on specified conditions (e.g., to commit no additional violations within a specified period of time), the person may admit the violation, accept the conditions, and pay any unsuspended portion of the penalty by the due date, subject to complying with the conditions by the date specified in the notice of penalty assessment. Failure to comply with those conditions will result in the suspended portion of the original penalty immediately becoming due and payable.

(4) **Written statement.** Any response contesting the violation or requesting mitigation must include a written statement of the reasons supporting the requested relief. The commission may deny any contest to the violation or any mitigation request that does not include such a statement.

(5) **Staff reply.** Commission staff will file any reply to a response contesting the violation or requesting mitigation within ten business days. If the commission conducts a hearing on the request, commission staff will participate as a party in that proceeding.

(6) **Hearing.** The commission will grant a request for hearing to contest the violation or request mitigation only if material issues of law or fact require consideration of evidence and resolution in a hearing. If the commission denies a request for hearing, the commission will consider the contest of the violations or request for mitigation based on the written statement included in the response. If the commission grants a request for hearing, an administrative law judge other than

the director of the administrative law division or the designee who signed the penalty assessment will review the evidence supporting the contest of the violation or application for mitigation in a brief adjudicative proceeding pursuant to WAC 480-07-610. The executive secretary will issue a notice establishing the procedures, date, and time for the hearing.

(7) **Order.** The executive secretary will enter an order resolving contested violations or requests for mitigation the commission considers without a hearing. A person aggrieved by the order may request administrative review. The commission will consider the request using the same process and requirements applicable to commission review of initial orders set forth in WAC 480-07-825.

(8) **Compliance with conditions.** An order on mitigation may suspend all or part of an assessed penalty based on one or more conditions.

(a) *Compliance.* If the penalized person complies with all conditions in the order, commission staff will file a letter confirming that compliance. If the commission agrees, the executive secretary will issue a letter or notice waiving the suspended portion of the penalty.

(b) *Noncompliance.* If the penalized person does not comply with any such condition, commission staff will file a letter or motion requesting that the commission impose some or all of the suspended portion of the penalty. The penalized person must file any response to the letter or motion within five business days, including any request for a hearing to assess the person's compliance with the condition. The commission will consider and make a determination on the letter or motion and any request for hearing using the same procedure and requirements in subsections (6) and (7) of this rule.

(9) **Enforcement.** Unless a timely contest of the violation(s) or mitigation request is pending before the commission, failure to pay an assessed penalty by the due date is a violation of law for which the commission may take additional enforcement action including, but not necessarily limited to, one or more of the following:

- (a) Assess additional penalties;
- (b) Suspend or revoke the operating authority of a penalized public service company whose operating authority is subject to commission suspension or revocation until the company pays the penalty in full;
- (c) Refer the debt to a collection agency;
- (d) Initiate an adjudicative or brief adjudicative proceeding; or
- (e) File an enforcement action in superior court.

NEW SECTION

WAC 480-07-917 Penalties for failure to file annual report and pay regulatory fees. (1) **Monetary penalties.** Any public service company that fails to file a complete annual report with the commission and pay any required regulatory fees by May 1st of each year, or by a subsequent deadline the commission has previously established in response to a company's timely request to extend the May 1st filing date, must pay the following monetary penalties to the commission:

- (a) Two hundred fifty dollars if the filing is one to thirty days late;

(b) Five hundred dollars if the filing is thirty-one to sixty days late; or

(c) One thousand dollars if the filing is sixty-one to ninety days late.

(2) **Alternative penalties.** If a public service company has not filed a complete annual report and paid any required regulatory fees within ninety days after the filing deadline, the commission in its discretion may impose one or both of the following penalties as an alternative to the monetary penalties in subsection (1) of this section:

(a) Revocation or cancellation of the company's operating authority (unless otherwise prohibited under applicable law) following notice and opportunity for hearing (if required by applicable law); and

(b) Penalties the commission may assess pursuant to RCW 80.04.380, 80.04.405, 81.04.380, or 81.04.405, as applicable.

(3) **Notice.** The commission will serve a notice on each public service company that has failed to file a complete annual report and pay any required regulatory fees by the deadline, specifying the amount of the monetary penalty due as of the date of the notice. The notice will also advise the company that the specified penalty is due and payable and will increase as provided in subsection (1) of this section, or that the company may be subject to the alternative penalties in subsection (2) of this section, if the company continues to fail to file a complete annual report and pay any required regulatory fees.

(4) **Waiver.** The commission may waive a monetary penalty, in whole or in part, if the public service company demonstrates to the commission's satisfaction that the company failed to file its complete annual report and pay any required regulatory fees by the deadline due to circumstances beyond the company's control.

(a) *Request.* The commission must receive any request for waiver of the monetary penalty within fifteen days of the date of the commission notice informing the company that the penalty is due and payable. The request must include a written statement of the reasons the company failed to file a complete annual report and pay any required regulatory fees by the deadline sufficient to demonstrate that the company's failure was due to circumstances beyond its control. Unless those circumstances continue to persist, the company should file a complete annual report and pay any required regulatory fees prior to, or at the same time as, submitting a request for waiver.

(b) *Circumstances beyond a company's control.* Circumstances beyond a company's control that may support a request to waive some or all of the monetary penalty include, but are not limited to:

(i) Death or serious illness of the person responsible for filing the report, or a member of that person's immediate family;

(ii) Destruction by fire or other casualty of the company's place of business or business records;

(iii) An act of fraud, embezzlement, theft, or conversion on the part of an employee; or

(iv) The commission did not send notice of the annual report filing requirement to the company as a result of commission error. Commission error for these purposes does not

include either the commission's inability to send notice to the company or the commission sending notice to an incorrect address if the company has failed to provide the commission with the company's current correct email address (or physical address if the company has notified the commission that it does not have, and cannot obtain, an email address).

(c) *Circumstances not beyond a company's control.* Circumstances that are not beyond a company's control and that will not support a request to waive some or all of the monetary penalty include, but are not limited to:

(i) Financial hardship;

(ii) Misunderstanding or lack of knowledge of commission rules;

(iii) Failure to receive an annual report form from the commission unless the annual report form was not available on the commission's web site, or the commission did not furnish a copy of the form upon request in reasonable time for the company to file the form and pay any required fees;

(iv) Mistakes or misconduct on the part of an employee other than fraud, embezzlement, theft, or conversion;

(v) Employee termination or turnover;

(vi) Personal events such as weddings or graduation ceremonies; and

(vii) Vacations or business trips.

(d) *No tolling.* A request for waiver of a monetary penalty does not toll a company's obligation to file a complete annual report and pay any required regulatory fees. If the company has not made the required filing, the penalty amount will continue to escalate as provided in subsection (1) of this section unless and until the company makes that filing, regardless of whether the company has requested a waiver of the penalty.

(e) *Commission decision.* Within ten days of receiving a request for waiver, the commission will issue a notice informing the company of the commission's decision on the request.

(f) *No administrative review.* Except for penalties the commission assesses pursuant to subsection (2)(b) of this section, the decision on any request for waiver of a monetary penalty is final and is not subject to further administrative review.

(5) **Delegation.** The commission delegates to the director of regulatory services, or the director's designee, the authority to assess and to determine whether to waive, in whole or in part, the monetary penalties in subsection (1) of this section. The commission delegates to the director of the administrative law division, or an administrative law judge the director designates, the authority to impose the alternative penalties in subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-920 Interpretive and policy statements.

(1) **General.** Upon the petition of any person, or upon its own ~~((motion))~~ initiative, the commission may make and issue interpretive and policy statements to advise the public of ~~((its))~~ the commission's current opinions, approaches, and likely courses of action. Interpretive and policy statements

are advisory only and are not binding on the commission or any person.

(2) **Roster of interested persons.** The commission will maintain a roster of interested persons (~~(, consisting of persons)~~) who have requested in writing to be notified of all interpretive and policy statements (~~(issued by)~~) the commission issues. The commission will periodically update the roster. (~~(When)~~) The commission will provide an electronic copy to each person on the roster when the commission issues an interpretive (~~(or)~~) and policy statement (~~(, it will send a copy of the statement to each person on the roster)~~).

(3) (~~(Index of current statements. The commission maintains a file and an index of all currently effective interpretive and policy statements. The statements are available for inspection and copying at the records center in the commission's Olympia headquarters office and are posted on the commission's internet web site.)~~) **Submission of statement to the office of the code reviser.** Whenever it issues an interpretive and policy statement, the commission will submit to the office of the code reviser for publication in the *Washington State Register* a statement describing the subject matter of the interpretive and policy statement and describing how interested persons may obtain a copy of that statement.

(4) **Conversion to rules.** The commission may convert any interpretive and policy statement into rules through a formal rule making. Any interested person may petition the commission to initiate such a rule making. Upon receipt of such a petition, the commission will:

(a) Notify the joint administrative rules review committee of the petition; and

(b) Within sixty days either deny the petition in writing, stating the reasons for the denial, or initiate rule-making proceedings.

AMENDATORY SECTION (Amending WSR 06-16-053, filed 7/27/06, effective 8/27/06)

WAC 480-07-930 Declaratory orders under RCW 34.05.240. (1) **Petition.** Any interested person may petition the commission for a declaratory order with respect to the applicability to specified circumstances of a rule, order, or statute enforceable by the commission, as provided by RCW 34.05.240.

(a) *Format.* Petitions for declaratory orders under RCW 34.05.240 must conform in style and substance to the requirements for other forms of adjudicative pleading as specified in Part III, subpart A of this chapter.

(b) *Relationship with adjudications.* The commission will dismiss a petition for declaratory order when issues in the petition are at issue in a pending adjudication. The commission will reject a single pleading that (~~(seeks)~~) purports to present the commission with the option to enter either a declaratory order or (~~(, in the alternative,)~~) an adjudicative order. The filing party must (~~(choose which)~~) specify a single process (~~(it deems appropriate)~~) under which it requests that the commission proceed.

(2) **Notice.** The commission will give notice of any petition for declaratory order within fifteen days after the commission receives the petition. The commission will serve notice (~~(will be served)~~) on all persons who are required by

law to be given notice and on any other person to whom the commission deems notice to be desirable.

(3) **Response.** Any person may respond to a petition for declaratory order by filing (~~(an answer)~~) a response within twenty days after the petition is filed or at such other time as the commission may establish by notice. The commission will not enter a declaratory order under RCW 34.05.240 if any person:

(a) Asserts in response to a petition for declaratory order filed pursuant to RCW 34.05.240 that their rights might be substantially prejudiced by entry of a declaratory order(~~(;)~~);

(b) Supports such assertion by sworn statement in the form of a declaration or affidavit demonstrating the potential for substantial prejudice(~~(;)~~); and

(c) Does not consent in writing to the determination of the matter by a declaratory order proceeding under RCW 34.05.240.

(4) **Conversion of proceeding.** The commission may convert the form of a declaratory order proceeding as provided under RCW 34.05.070 and conduct the matter as an adjudicative proceeding under Part III, subpart A of this chapter.

(5) **Commission action on petition.** Within thirty days after it receives a petition for declaratory order, the commission will:

(a) Enter a declaratory order;

(b) Notify the petitioner that the commission will not enter a declaratory order under RCW 34.05.240(~~(;)~~) and state the reasons for (~~(its action)~~) that decision;

(c) Set a specified time, no later than ninety days after the day the petition was filed, by which the commission will enter a declaratory order; or

(d) Set a reasonable time and place for a hearing. (~~(If a)~~) The commission will hold any hearing (~~(is held)~~) on a petition for declaratory order under RCW 34.05.240(~~(, it must be held no more than)~~) within ninety days after receipt of the petition. (~~(If a hearing is held,)~~) The commission will give at least seven days' notice of any hearing to the petitioner, to all persons to whom notice is required by law, and to any other person (~~(#)~~) the commission deems desirable. The notice will include the time(~~(;)~~) and place(~~(;)~~) for the hearing and a statement of the issues (~~(involved)~~) the commission will consider.

(6) **Extension of time.** The commission may (~~(for good cause)~~) extend the times specified in subsection (5)(c) and (d) of this section for good cause.

(7) **Commission action after hearing.** (~~(If a)~~) The commission will take one of the following actions within a reasonable time after holding any hearing (~~(is held)~~) as provided in subsection (5)(d) of this section(~~(, the commission will within a reasonable time)~~):

(a) Enter a declaratory order; or

(b) Notify the petitioner that the commission will not enter a declaratory order and state the reasons for (~~(its action)~~;

(8) **Service.** ~~The commission will serve its order or notice upon all persons who are required to receive notice under subsection (2) of this section) that decision.~~

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-07-940 Conversion of proceedings. The commission (~~(will consider whether to)~~) may convert a proceeding (~~(pursuant to RCW 34.05.070)~~) to a different type of proceeding on the commission's own initiative or upon application by any party or person ((or upon its own motion)) directly affected. Any such conversion or commission refusal to convert a proceeding will comply with the requirements in RCW 34.05.070 and be consistent with the public interest.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 480-07-883 Compliance filing—Filing requirements; timing; commission action.

WSR 18-18-049

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed August 29, 2018, 4:02 p.m., effective September 29, 2018]

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

Purpose: Chapter 246-10 WAC, Administrative procedure's adjudicative proceedings, the rules in chapter 246-10 WAC are intended to compliment the adjudicative proceedings standards governed by RCW 34.05.413 through 34.05.476. The amended rule is the result of a comprehensive chapter review and clarifies, streamlines, and modernizes the entire chapter.

A comprehensive review of the entire chapter showed that the existing rules did not reflect current business practices. In general, the revised rule now:

- Accurately reflects internal department operations;
- Adopts, incorporates, clarifies, or complies with federal or other state regulations;
- Has an updated definition[s] section;
- Preserves confidentiality of health care records; and
- Accurately reflects categories for brief adjudicative proceedings.

Portions of the rules also implement ESHB 1381, enacted in 2013, which changed the department's administrative adjudicative process. The law created a new process allowing a party to request the secretary's review of a health law judge's decision. The health law judges now issue initial decisions in cases where the secretary has final decision-making authority.

The rules in this chapter apply to all proceedings before the department where the secretary of health is the final decision maker. The rules that apply to health professions regulated by a health profession board or commission are found in chapter 246-11 WAC.

Citation of Rules Affected by this Order: New WAC 246-10-6035, 246-10-70105 and 246-10-708; and amending WAC 246-10-101, 246-10-102, 246-10-103, 246-10-104,

246-10-105, 246-10-106, 246-10-107, 246-10-108, 246-10-109, 246-10-110, 246-10-114, 246-10-115, 246-10-117, 246-10-118, 246-10-119, 246-10-120, 246-10-121, 246-10-122, 246-10-123, 246-10-124, 246-10-202, 246-10-203, 246-10-204, 246-10-205, 246-10-301, 246-10-303, 246-10-304, 246-10-305, 246-10-307, 246-10-401, 246-10-402, 246-10-403, 246-10-404, 246-10-405, 246-10-501, 246-10-502, 246-10-504, 246-10-605, 246-10-608, 246-10-701, 246-10-702, 246-10-704, 246-10-705, and 246-10-707.

Statutory Authority for Adoption: RCW 43.70.040, 34.05.220, 34.05.410, and 18.130.050.

Other Authority: RCW 34.05.413 through 34.05.476.

Adopted under notice filed as WSR 18-06-049 on March 2, 2018.

Changes Other than Editing from Proposed to Adopted Version: The adopted rule contains editing changes that provide further clarification.

WAC 246-10-104 Appearance of parties, in subsection (3) the original language was restored. In the proposed rule the respondent's right to appear by phone was withdrawn and replaced by leaving whether a telephone appearance is acceptable up to the discretion of the hearing officer, with a requirement that the respondent show "good cause." In the proposed rule there was no definition of what constitutes "good cause" in this situation, and different hearing officers could have different interpretations and it was perceived that the removal of the telephone appearance option could be hard on licensees who practice far from the hearing venue. This was not the intent and therefore the original language was restored.

WAC 246-10-115 Expenses and witness fees, subsection (1)(a) and (b) have been removed because the department doesn't have the authority to set the fees and expenses the respondent pays witnesses and experts.

WAC 246-10-123 Subpoenas, subsection (6)(b) was revised because of concern that the proposed requirement was not sufficient protection to provide or ensure notice to the actual witness or compel their attendance at a hearing. Subsection (6)(b) was amended to say "leaving a copy at such person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein." This language is similar to other statutory language.

WAC 246-10-202 Amendment of initiating documents, subsection (2)(b) was amended to delete the phrase "or part of the matter." Reconvening the same individuals for the rest of the hearing can be difficult to do in a timely manner.

WAC 246-10-203 Request for adjudicative proceeding, the citation in subsection (1)(c) was reinstated to the original citation. WAC 246-10-104(3) is now properly cited as WAC 246-10-104(4). The correction was necessary to reflect changes made to WAC 246-10-104.

WAC 246-10-301 Conduct of emergency adjudicative proceedings, the proposed rule was amended upon adoption to reflect the ability to take emergency action for both prompt hearings under the Administrative Procedure Act (chapter 34.05 RCW) and for show cause hearings under the Uniform Disciplinary Act (chapter 18.130 RCW). Subsection (1) was amended to reflect hearings under chapter 18.130 RCW, and a new subsection (2) was adopted to reflect hearings under chapter 34.05 RCW.

WAC 246-10-303 Form and content of summary actions, subsection[s] (2) and (3) were amended to reflect emergency action for both prompt hearings under the Administrative Procedure Act (chapter 34.05 RCW) and for show cause hearings under the Uniform Disciplinary Act (chapter 18.130 RCW).

WAC 246-10-307 Show cause hearing, at adoption, language in subsection (5) of the proposed rule was repealed because the rule already establishes fair time frames for everyone. The language in subsection (5) that was repealed stated "The presiding officer may adjust the timelines in subsection (3) or (4) of this section in the interest of fairness, as long as the hearing is held within fourteen days of the license holder's request for a show cause hearing." Subsection (9) was amended to clarify that a hearing will be provided on a statement of charges within forty-five days.

WAC 246-10-401 Settlement conference, subsection (5) was amended to clarify that when a settlement offer has been signed and returned by the respondent all subsequent dates set in the scheduling order are stayed or stricken pending final review of the settlement by the presiding officer. The term "stricken" was inadvertently left out.

WAC 246-10-403 Motions, subsections (6), (7) and (8) were amended to include page limits. This amendment reflects consistency with the same restrictions that most courts have.

WAC 246-10-405 Protective orders, subsection (3) was amended to include clarification that the clerk's office will not accept documents that are not redacted consistent with a protective order.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 7, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 44, 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 3, Amended 44, Repealed 0.

Date Adopted: August 28, 2018.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 93-13-005, filed 6/3/93, effective 7/4/93)

WAC 246-10-101 Application of chapter. (1) This chapter ~~((shall apply))~~ applies to adjudicative proceedings authorized to be conducted under the authority of the department of health.

(2) ~~((This chapter applies to adjudicative proceedings begun on or after the effective date of this chapter in programs administered by the department of health. For pur-~~

~~poses of this section, "begun" shall mean the receipt by the appropriate office of an application for an adjudicative proceeding. These rules shall be))~~ The rules in this chapter are the exclusive rules governing adjudicative proceedings under the jurisdiction of the department.

(3) To the extent that these rules differ by inclusion, deletion, or content from the model rules adopted by the chief administrative law judge pursuant to RCW 34.05.250, this chapter shall prevail in order to provide a process consistent with the organization of the department.

(4) Where a provision of this chapter conflicts with another chapter of this title, the provision of this chapter shall prevail.

(5) Where a provision of this chapter conflicts with a provision of the Revised Code of Washington, the statute shall prevail.

AMENDATORY SECTION (Amending WSR 09-03-089, filed 1/20/09, effective 2/20/09)

WAC 246-10-102 Definitions. ~~((As used in these rules of practice and procedure, the following terms shall have the meaning set forth))~~ The definitions in this section apply throughout this chapter unless the context clearly ~~((indicates))~~ requires otherwise. ~~((Other terms shall have their ordinary meaning unless defined elsewhere in this chapter.))~~

(1) "Adjudicative ~~((clerk))~~ clerk's office" ~~((shall))~~ means the unit with responsibility for: Docketing; service of orders; and maintaining custody of the adjudicative proceeding record, whose address is:

Department of Health
Adjudicative ~~((Clerk))~~ Clerk's Office
~~((310 Israel Rd. S.E.))~~
P.O. Box 47879
Olympia, WA 98504-7879

(2) "Adjudicative proceeding" or "hearing" ~~((shall))~~ means a proceeding required by statute or constitutional right and conducted under the rules of this chapter, which provides an opportunity to be heard by the department prior to the entry of a ~~((final))~~ order under this chapter.

(3) "Adjudicative service unit" means the unit responsible for conducting adjudicative proceedings.

(4) "Brief adjudicative proceeding" ~~((shall))~~ means an adjudicative proceeding or hearing, the scope or conduct of which is limited as provided in this chapter.

(5) "Department" ~~((shall))~~ means the Washington state department of health and, where appropriate, the secretary of the Washington state department of health or the secretary's designee.

(6) "Docket" or "docketing" ~~((shall))~~ means the list or calendar of causes set to be heard at a specified time, prepared by the adjudicative ~~((clerk))~~ clerk's office for the use of the department.

(7) "Filing" ~~((shall))~~ means receipt by the adjudicative ~~((clerk))~~ clerk's office.

(8) "Initiating document" ~~((shall))~~ means a written agency document which initiates action ~~((against a license holder or applicant for license or recipient of benefits))~~ and which creates the right to an adjudicative proceeding. ~~((H~~

~~may be entitled~~) Initiating documents may be a statement of charges, notice of intent to deny, order, or ~~((by))~~ any other ~~((designation))~~ document indicating the action or proposed action to be taken.

(9) "License" ~~((shall have the))~~ has the same meaning ~~((set forth))~~ as defined in RCW 34.05.010, and includes any license, certification, registration, permit, approval, or any similar form of authorization required by law to be obtained from the department.

~~("Office of professional standards" shall mean the unit responsible for conducting adjudicative proceedings.)~~

(10) "Presiding officer" ~~((shall))~~ means the person who is assigned to conduct an adjudicative proceeding. The presiding officer may be an employee of the department who is authorized to issue ~~((a))~~ an initial or final decision as designee of the secretary, or an administrative law judge employed by the office of administrative hearings.

(11) "Presiding officer for brief adjudicative proceedings" ~~((shall))~~ means an employee of the department who is authorized to conduct brief adjudicative proceedings.

(12) "Program" ~~((shall))~~ means the administrative unit within the department responsible for implementation of a particular agency responsibility, statute, or rule.

(13) "Prompt adjudicative proceeding" ~~((or "prompt hearing" shall))~~ means a hearing conducted at the request of the respondent following summary action taken in accord with this chapter.

(14) "Protective order" ~~((shall))~~ means an order issued under this chapter which limits the use of, access to, or disclosure of information or evidence.

(15) "Recipient of benefits" ~~((shall))~~ means an individual who has qualified for benefits administered by the department.

(16) "Respondent" ~~((shall))~~ means a person eligible to request an adjudicative proceeding in a program under the jurisdiction of the department who is named in an initiating document.

(17) "Review officer" means the person who is designated to issue final orders upon receiving a petition for review of an initial order pursuant to RCW 34.05.464, and final orders of default when the respondent has failed to timely respond to an initiating document.

(18) "Secretary" ~~((shall))~~ means the secretary of the department of health or ~~((his/her))~~ his or her designee.

(19) "Show cause hearing" means a hearing authorized under RCW 18.130.135 and WAC 246-10-307 for the limited purpose of determining whether a summary action taken by the disciplining authority shall remain in effect pending a full administrative hearing.

(20) "Summary action" ~~((shall))~~ means an agency action to address an immediate ~~((danger))~~ threat to the public health, safety, or welfare and shall include, but is not ~~((be))~~ limited to, a cease and desist order, an order of summary suspension, ~~((and))~~ or an order of summary restriction of a license.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-103 Signature authority. (1) A person designated by the program shall sign all initiating documents issued under this chapter.

(2) The presiding officer or review officer shall sign ~~((a))~~ orders issued under this chapter.

(3) Authority to sign ~~((shall be))~~ is indicated by designation of the title of the person signing and shall not require any other affirmation, affidavit, or allegation.

AMENDATORY SECTION (Amending WSR 93-13-005, filed 6/3/93, effective 7/4/93)

WAC 246-10-104 Appearance of parties. If a respondent requests an adjudicative proceeding to contest the action, that party shall appear at all stages of the proceeding except as otherwise provided in this section.

(1) If the respondent is represented as provided in this chapter, the respondent shall appear personally at the hearing and at any scheduled settlement conference but need not appear at the prehearing conference or at presentation of motions.

(2) Parties may be represented by counsel at all proceedings.

(3) The respondent may appear by telephone at any portion of the proceedings conducted by telephone, in the discretion of the presiding officer following reasonable advance notice to the presiding officer and to the opposing party.

(4) The requirement of personal appearance may be waived for good cause ~~((in))~~ at the discretion of the presiding officer.

(5) Failure to appear as provided in this chapter ~~((shall be))~~ is grounds for taking ~~((final))~~ action by default.

AMENDATORY SECTION (Amending WSR 93-13-005, filed 6/3/93, effective 7/4/93)

WAC 246-10-105 Computation of time. (1) When computing a period of time prescribed or allowed by an applicable statute or rule, the day of the act, event, or default from which the designated period of time begins to run ~~((shall not be))~~ is not included.

(2) The last day of the computed period ~~((shall be))~~ is included unless the last day is a Saturday, Sunday, or legal holiday.

(3) When the last day is a Saturday, Sunday, or legal holiday, the period ~~((shall run until the end of))~~ ends at 5:00 p.m. on the next day which is not a Saturday, Sunday, or legal holiday.

(4) When the period of time prescribed or allowed is seven days or less, any intermediate Saturday, Sunday, and legal holiday ~~((shall be))~~ is excluded from the computation.

AMENDATORY SECTION (Amending WSR 93-13-005, filed 6/3/93, effective 7/4/93)

WAC 246-10-106 ~~((Notarization,))~~ Certification(s) and authentication. (1) A person's ~~((sworn))~~ written statement, declaration, verification, certificate, or oath ~~((or affi-~~

clerk)) may be authenticated by ~~((an unsworn))~~ a written statement which is executed in substantially the following form:

I certify (or declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

(Date and Place)	(Signature)
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(2) Documents or records may be authenticated by a certification, as provided in subsection (1) of this section, from the custodian of the records or other qualified person that the documents or records are what they purport to be.

(3) Signature of any attorney ~~((shall))~~ must be accompanied by and authenticated by that attorney's Washington State Bar Association number.

(4) Documents prepared and submitted by a party who is not represented by an attorney ~~((shall))~~ must be signed and dated by that party and ~~((shall))~~ must include that party's current address.

(5) Signature by a party or an attorney on a document shall constitute a certificate by the party or attorney that ~~((he/she))~~ he or she has read the document, believes there are grounds to support it, and has not submitted the document for the purpose of delay, harassment, or needless increase in the cost of a proceeding.

(6) Compliance with certification requirements of subsections (1) and (2) of this section creates a rebuttable presumption that a document is authentic.

AMENDATORY SECTION (Amending WSR 96-21-027, filed 10/7/96, effective 11/7/96)

WAC 246-10-107 Persons who may request adjudicative proceedings. The following persons ~~((indicated))~~ or entities may request an adjudicative proceeding under this chapter.

(1)(a) With respect to the denial of applications made under ~~((WAC 246-290-100, 246-290-110, 246-290-120, 246-290-130, 246-290-140, 246-291-100, 246-291-110, 246-291-120, 246-291-130, 246-291-140, and 246-295-040))~~ chapters 246-290, 246-291, and 246-295 WAC, the denied applicant may request an adjudicative proceeding.

(b) A person whose application for the approval of a new public water system is denied under WAC 246-293-190, a purveyor whose license is adversely affected by a departmental decision under WAC 246-293-190 or the county legislative authority having jurisdiction in the area affected by the decision may request an adjudicative proceeding under this chapter.

(c) A purveyor affected by the decision of the department under WAC 246-293-430 or the county legislative authority having jurisdiction in the area may request an adjudicative proceeding with respect to a decision made under WAC 246-293-430.

(d) A person upon whom a civil penalty is imposed under RCW 70.119A.040 may request an adjudicative proceeding.

(2) ~~((With respect to all other matters))~~ Persons named in an initiating document under chapter 18.130 RCW involving the issuance, denial ~~((of))~~, or ~~((adverse))~~ other action against~~((;))~~ a license, ~~((the applicant or licensee))~~ or alleging unlicensed practice, may request an adjudicative proceeding.

(3) With respect to matters involving receipt of benefits or application therefor, the recipient of or applicant for the benefits may request an adjudicative proceeding.

(4) With respect to an application for approval of a school or curriculum, or the withdrawal of such approval, the person or ~~((authority))~~ entity that applied for such approval may request an adjudicative proceeding.

(5) With respect to the department's final threshold determination that an environmental impact statement (EIS) is or is not necessary and with respect to the adequacy of a final EIS, any person may request an adjudicative proceeding who:

(a) Is seeking to protect an interest within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question; and

(b) Will be specifically and perceptibly harmed by the proposed action.

(6) Any other person or entity who has the right to request an adjudicative proceeding under RCW 43.70.115 or other applicable statute or rule.

(7) Any application for an adjudicative proceeding that on its face demonstrates that the person making the application does not have standing under this rule may be summarily dismissed by entry of a decision pursuant to RCW 34.05.416. A motion to dismiss a matter for lack of standing may be made at any time prior to entry of the final order.

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-108 Representation. (1) Persons requesting an adjudicative proceeding may be represented subject to the following conditions:

(a) A person requesting an adjudicative proceeding may represent ~~((himself/herself))~~ himself or herself or may be represented by an attorney who has complied with the admission to practice rules of the supreme court of the state of Washington~~((;))~~.

(b) Every attorney representing a person requesting an adjudicative proceeding shall file a notice of appearance with the adjudicative ~~((clerk))~~ clerk's office upon commencing representation, and shall file a notice of withdrawal of counsel with the adjudicative ~~((clerk))~~ clerk's office upon terminating representation.

(c) No person requesting an adjudicative proceeding may be represented in an adjudicative proceeding by an employee of the department.

(2) No current or former employee of the department may appear as an expert, character witness, or representative of any party other than the ~~((state of Washington if he/she))~~ department if the employee took an active part in investigating or evaluating the case or represented the agency in the matter, unless written permission of the secretary is granted.

(3) No current or former ~~((member))~~ employee of the attorney general's office ~~((staff))~~ who participated personally

and substantially in investigating or evaluating the matter at issue while so employed may represent a party other than the department or otherwise participate in a related proceeding without first having obtained the written consent of the attorney general's office.

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-109 ((Service and)) Filing and service of documents. ~~((1))~~ A party filing a pleading, brief, or paper other than an initiating document or application for an adjudicative proceeding as required or permitted by these rules, shall serve a copy of the paper upon the opposing party or any designated representative of the opposing party prior to or simultaneous with filing.

(2) Unless otherwise provided by law, filing and service shall be made by personal service; by first class, registered, or certified mail; or by electronic telefacsimile transmission (fax) where copies are mailed simultaneously.

(3) Filing shall be complete upon actual receipt during normal business hours at the adjudicative clerk office.

(4) Service shall be complete when personal service is made; or mail is properly stamped, addressed, and deposited in the United States mail; or fax transmission is completed and copies are deposited in the United States mail properly stamped and addressed.

(5) Proof of service shall consist of filing as required by these rules, together with one) (1) For purposes of this section "documents" means pleadings, briefs, exhibits, or other materials requested or relevant to an adjudicative proceeding.

(2) Filing. Filing is the act of delivering documents to the adjudicative clerk's office.

(a) A party must file with the adjudicative clerk's office documents required or allowed pursuant to this chapter.

(b) Unless otherwise provided by law, documents must be filed by:

(i) Hand delivery to the adjudicative clerk's office;

(ii) First class, registered, or certified mail; or

(iii) Fax transmission where copies are mailed simultaneously.

(c) The date of filing is the date the documents are received by the adjudicative clerk's office.

(d) Filing is effective when the documents are received by the adjudicative clerk's office during normal business hours. For documents received after 5:00 p.m. on a business day or on a Saturday, Sunday, or legal holiday, the filing is effective the next business day.

(3) Service. Service is the act of delivering a document to a party or a party's designated representative.

(a) Unless otherwise provided by law, documents must be served by:

(i) Personal service;

(ii) First class, registered, or certified mail; or

(iii) Fax transmission where copies are mailed simultaneously.

(b) A party must serve copies of documents required or allowed by this chapter prior to or simultaneously with filing the original document with the adjudicative clerk's office.

(c) Service is complete when the documents are:

(i) Personally served;

(ii) Properly stamped, addressed, and deposited in the United States mail; or

(iii) Successfully transmitted by fax and properly stamped and addressed copies are deposited in the United States mail.

(d) A party may prove service by filing in compliance with this chapter any of the following:

((a)) (i) An ((acknowledgement)) acknowledgment of service; or

((b)) (ii) A certificate of service including the date the ((papers)) documents were served, the parties upon whom served, the signature of the serving party, and a statement ((that service was completed by:

(i) Personal service; or

(ii) Mailing in the United States mail a copy properly addressed with postage and fees prepaid to each party and each designated representative.

(6) For the purpose of) specifying which type of service was used.

(e) Service on a licensee, applicant, or a person requesting an adjudicative proceeding((, service shall)) will be made at the last known address provided to the department in accordance with WAC ((246-01-100)) 246-12-310, unless the program has actual knowledge of a different correct address for the person being served.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-110 Jurisdiction. (1) The department has jurisdiction over all licenses issued by the department and over all holders of and applicants for licenses. Such jurisdiction is retained even if an applicant abandons or requests to withdraw the application, or a licensee ((surrenders or)) fails to renew a license.

(2) The department has jurisdiction over practice by unlicensed ((practice)) persons of any activity, profession, or business for which a license is required unless otherwise prohibited by law.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-114 Public records. (1) All papers, exhibits, transcripts, and other materials required by or submitted in accordance with this chapter ((shall be considered)) are public records.

(2) Release of information upon request for public records ((shall be)) is subject to the following limitations:

(a) Release of health care information ((shall)) must comply with chapter 70.02 RCW and ((rules promulgated thereunder)) any applicable statute or rule; and

(b) ((Protective orders issued pursuant to WAC 246-10-405 shall prevail; and

(e) Chapter 42.17 RCW shall)) Chapter 42.56 RCW governs the release of records.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-115 Expenses and witness fees. (1) ~~The party requesting the appearance of a witness under a subpoena shall pay the witness fees and expenses ((shall be paid at the following rates to witnesses appearing under subpoena by the party requesting the appearance:~~

(a) ~~Fees shall be paid at the daily rate established for jurors in district court of Thurston County; and~~

(b) ~~Expenses shall be paid at the rate established for employees of the state of Washington, or as otherwise required by law).~~

(2) ~~The party requesting services of an expert witness shall negotiate and pay fees for ((an) the expert witness ((shall be negotiated by and paid by the party requesting services of the expert)).~~

(3) ~~((All) The party incurring expenses ((incurred)) in connection with proceedings under this chapter shall ((be paid by the party incurring)) pay the expense.~~

(4) The department shall pay expenses associated with:

(a) The facility in which proceedings are conducted; and

(b) Recording of the proceedings.

(5) ~~((Expenses related to preparation and distribution of the transcript of proceedings shall be paid by)) The party filing a motion or request for review of an initial order or petition for reconsideration, appealing a final order, or otherwise requesting ((the) a transcript of a proceeding shall pay all expenses related to preparation and distribution of the transcript.~~

AMENDATORY SECTION (Amending WSR 93-13-005, filed 6/3/93, effective 7/4/93)

WAC 246-10-117 Official notice and agency expertise. (1) Official notice may be taken as provided in RCW 34.05.452(5).

(2) The department, through its designated presiding officer or review officer, may use its expertise and specialized knowledge to evaluate and draw inferences from the evidence presented to it.

AMENDATORY SECTION (Amending WSR 93-13-005, filed 6/3/93, effective 7/4/93)

WAC 246-10-118 Sanctions. (1) Orders may include sanctions against either party.

(2) Grounds for sanctions may include:

(a) Failure to comply with ~~((these rules))~~ this chapter or orders of the presiding officer or review officer; and

(b) Willful interference with the progress of proceedings.

(3) Sanctions may include:

(a) Dismissal of the matter;

(b) Proceeding in default; and

(c) Other sanctions as appropriate.

(4) The order ~~((shall))~~ must state the grounds upon which any sanctions are imposed.

AMENDATORY SECTION (Amending WSR 93-13-005, filed 6/3/93, effective 7/4/93)

WAC 246-10-119 Intervention. (1) The presiding officer may grant a petition for intervention pursuant to RCW 34.05.443.

(2) A request to intervene ~~((shall))~~ will be handled as a prehearing motion and ~~((shall))~~ will be subject to the dates contained in the scheduling order. ~~((Within the sound exercise of discretion,))~~ The presiding officer may allow intervention if:

(a) The intervenor is not a party to the matter but has a substantial interest in the outcome of the matter and the interest of the intervenor is not adequately represented by a party, or other good cause exists; and

(b) Any representative of the intervenor meets the requirements of WAC 246-10-108.

(3) A person ~~((shall))~~ will not be allowed to intervene if that person had notice of the agency's decision and, upon timely application, would have been able to appear as a party in the matter in which intervention is sought, but failed to make such timely application.

(4) If intervention is granted, the intervenor shall ~~((be subject to these rules))~~ comply with this chapter on the same basis as the other parties to the proceeding, unless otherwise limited in the order granting intervention.

AMENDATORY SECTION (Amending WSR 93-13-005, filed 6/3/93, effective 7/4/93)

WAC 246-10-120 Form of pleadings and orders. (1) Pleadings, orders, and other papers filed, served, or entered under this chapter ~~((shall be))~~ must:

(a) ~~((Captioned))~~ Have a caption with the name of the state of Washington, department of health and the title of the proceeding; and

(b) Be signed by the person filing, serving, or entering the document. When that person is an attorney representing a party, the signature block ~~((shall))~~ must include the attorney's Washington State Bar Association number.

(2) All orders ~~((shall))~~ must comply with RCW 34.05.-461 and the requirements of this chapter.

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-121 Notice to ~~((limited-English-speaking))~~ limited-English proficient parties. (1) "Limited-English proficiency" means, for purposes of this section and WAC 246-10-122, that a person is unable to communicate effectively in English because their primary language is not English and they have not developed fluency in the English language. A person with limited-English proficiency may have difficulty speaking or reading English.

(2) The department shall ensure that when it serves an initiating document, it includes a notice that the respondent has the right to request an interpreter for the hearing if one is needed. The notice shall be in the top ten primary languages in Washington state as determined pursuant to subsection (4) of this section.

(3) When the adjudicative clerk's office is notified by a party that he or she has limited-English proficiency, is a party to an adjudicative proceeding, and their non-English language is one of the top ten primary languages in Washington state as determined pursuant to subsection (4) of this section, the department shall ensure that notices concerning a hearing, including notices of hearing, continuance, and dismissal are translated into the person's primary language.

(4) The top ten primary languages will be reevaluated each year to respond to demographic changes using:

(a) U.S. Census data;

(b) Office of financial management limited-English proficiency population forecasts; and

(c) Department tracking of frequency of encounters with limited-English proficient persons.

(5) When ~~(the program or)~~ the adjudicative ~~(clerk)~~ clerk's office is notified ~~((or otherwise made aware that a limited-English speaking person is a party in an adjudicative proceeding,))~~ by a party that he or she has limited-English proficiency, is a party to an adjudicative proceeding, and their non-English language is not a primary language addressed in subsection (4) of this section, the department shall make a reasonable effort to ensure that either all notices concerning the hearing, including notices of hearing, continuance, and dismissal, ~~((shall either be in the))~~ are in the person's primary language ~~((of the party or shall))~~ or include a notice in the party's primary language ~~((of the party))~~ which describes the significance of the notice and how the party may receive assistance in understanding and, if necessary, responding to the notice.

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-122 Interpreters for hearing or speech impaired persons and persons with limited-English proficiency.

(1) A "hearing or speech impaired person" means a person who, because of a hearing ~~((impairment))~~ or speech ~~((defect))~~ impairment, cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) ~~((A "limited-English speaking person" means a person who because of a non-English speaking cultural background cannot readily speak or understand the English language.~~

~~((3))~~ If a hearing ~~((impaired))~~ or speech impaired person or ~~((a limited-English speaking))~~ person with limited-English proficiency is involved in an adjudicative proceeding and ~~((#))~~ notifies the adjudicative clerk's office of the need for an interpreter ~~((is made known to the adjudicative clerk office)),~~ the presiding officer shall appoint an interpreter who is acceptable to the parties or, if the parties are unable to agree on an interpreter, the presiding officer shall select and appoint an interpreter.

~~((4))~~ (3) Before beginning to interpret, an interpreter shall take an oath or make affirmation that:

(a) A true interpretation ~~((shall))~~ will be made to the ~~((impaired))~~ person using the interpreter of all the proceed-

ings in a language or in a manner the ~~((impaired))~~ person understands; and

(b) The interpreter ~~((shall))~~ will repeat the statements of the ~~((impaired))~~ person using the interpreter to the presiding officer, in the English language, to the best of the interpreter's skill and judgment.

~~((5))~~ (4) When an interpreter is used in a proceeding:

(a) The interpreter shall ~~((translate))~~ interpret all statements made by other participants in the proceeding;

(b) The presiding officer shall ensure sufficient extra time is provided to permit ~~((translation))~~ interpretation; and

(c) The presiding officer shall ensure that the interpreter ~~((translates))~~ interprets the entire proceeding to the ~~((hearing impaired person or limited-English speaking person to the extent))~~ person using the interpreter so that the person has the same opportunity to understand the statements made as ~~((would))~~ a person not requiring an interpreter.

~~((6))~~ (5) An interpreter appointed under this section ~~((shall be))~~ is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The program shall pay the interpreter fee and expenses incurred for interpreters for license holders, applicants, or recipients of benefits. The party on whose behalf a witness requiring an interpreter appears shall pay for interpreter services for that witness.

~~((7))~~ (6) All proceedings ~~((shall))~~ must be conducted consistent with chapters 2.42 and 2.43 RCW.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-123 Subpoenas. (1) The presiding officer, the secretary or designee, and attorneys for parties may issue subpoenas to residents of the state of Washington, to license holders and applicants for license, and to other persons or entities subject to jurisdiction under RCW 4.28.185.

(2) The presiding officer shall issue subpoenas pursuant to RCW 34.05.446(1) for parties not represented by counsel upon request of the party and upon a showing of relevance and reasonable scope of the testimony or evidence sought. Requests for issuance of subpoenas must be made in writing to the presiding officer stating the relevance and the scope of testimony or evidence sought.

(3) The person on whose behalf the subpoena is issued shall pay any witness fees and expenses as provided in WAC 246-10-115 or costs for interpreters for such witnesses as provided in WAC 246-10-122.

(4) Attendance of persons subpoenaed and production of evidence may be required at any designated place in the state of Washington.

(5) Every subpoena ~~((shall))~~ must:

(a) Comply with WAC 246-10-120;

(b) Identify the party causing issuance of the subpoena; and

(c) ~~((State the title of the proceeding; and~~

~~((#))~~ Command the person to whom the subpoena is directed to attend and give testimony ~~((and/or))~~ or produce designated items under the person's control at a specified time and place.

(6) A subpoena may be served by any suitable person eighteen years of age or older by:

(a) Giving a copy of the subpoena to the person to whom the subpoena is addressed;

(b) Leaving a copy at ~~((the residence of the person to whom the subpoena is addressed))~~ such person's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein;

(c) Sending a copy of the subpoena by mail to the current address on file with the department if the person is licensed by the department or has filed an application for a license with the department; or

(d) Sending a copy of the subpoena by certified mail with proof of receipt if the person is neither licensed by nor has applied for a license with the department.

(7) Proof of service may be made by:

(a) Affidavit or declaration of personal service;

(b) Certification by the person mailing the subpoena to a license holder or applicant; or

(c) Return or acknowledgment showing receipt by the person subpoenaed or ~~((his/her))~~ his or her representative. Any person accepting certified or registered mail at the last known address of the person subpoenaed ~~((shall))~~ will be considered an authorized representative.

(8) The presiding officer, upon motion made promptly and before the time specified for compliance in the subpoena, may:

(a) Quash or modify the subpoena if the subpoena is unreasonable or requires evidence not relevant to any matter at issue; or

(b) Condition denial of the motion upon just and reasonable conditions, including advancement of the reasonable cost by the person on whose behalf the subpoena is issued of producing the books, documents, or tangible things; or

(c) Issue a protective order under RCW 34.05.446 or WAC 246-10-405.

(9) The department may seek enforcement of a subpoena under RCW 34.05.588(1) or proceed in default pursuant to WAC 246-10-204.

AMENDATORY SECTION (Amending WSR 96-21-027, filed 10/7/96, effective 11/7/96)

WAC 246-10-124 Preliminary requirements. (1) An applicant for an initial license or renewal of an existing license ~~((shall not be))~~ is not entitled to an adjudicative proceeding unless the applicant has submitted:

(a) A completed initial application or renewal application, as appropriate; and

(b) All applicable application, examination, or renewal fees payable in connection with such application or license.

(2) An aggrieved applicant ~~((shall not be))~~ is not entitled to an adjudicative proceeding with respect to the denial of an application submitted under ~~((WAC 246-290-100, 246-290-110, 246-290-120, 246-290-130, 246-290-140, 246-291-100, 246-291-110, 246-291-120, 246-291-130, 246-291-140, or 246-295-040,))~~ chapter 246-290, 246-291, or 246-295 WAC unless the applicant has submitted to the district engineer or other departmental employee responsible for reviewing the submittal, a certification that, to the best of the applicant's

knowledge and belief, the submittal is complete and demonstrates compliance with the state's drinking water regulations. Certification with respect to water system plans, project reports, construction documents and other submittals requiring preparational review by a licensed professional engineer ~~((shall))~~ must be provided on behalf of the applicant by the licensed professional engineer preparing or reviewing the submittal. Failure to comply with these preliminary requirements ~~((shall))~~ will result in the denial of the application for adjudicative proceeding without further review.

(3) An affected party ~~((shall not be))~~ is not entitled to an adjudicative proceeding with respect to a decision made under WAC 246-293-190 unless:

(a) Except with respect to a county legislative authority, the applicant ~~((shall have))~~ has complied with all preliminary requirements established under the coordinated water system plan approved by the county legislative authority and the department or, if the critical water supply service area's external boundaries have been approved but a coordinated water system plan has not been approved and adopted, then with any interim requirements imposed by the county legislative authority; and

(b) Within sixty days of the department's receipt of the request for an adjudicative proceeding, the applicant submits copies of the complete record of all proceedings conducted under the applicable coordinated water system plan or interim requirements. If such proceedings were taped or otherwise recorded, the record submitted to the department ~~((shall))~~ must include a transcript of the hearing or hearings which ~~((shall))~~ must be prepared and certified as correct by a registered professional court reporter.

~~((=))~~ (4) Failure to comply with the preliminary requirements outlined ~~((herein shall))~~ in subsection (3)(a) and (b) of this section will result in a denial of the hearing application without further review.

~~((=))~~ (5) Proceedings under WAC 246-293-430.

(a) An adjudicative proceeding ~~((shall))~~ will not be conducted with respect to a departmental decision made under WAC 246-293-430 unless, within sixty days of the department's receipt of the request for an adjudicative proceeding, the applicant has, at his or her own expense, submitted a transcript of the hearing conducted under WAC 246-293-430 from tapes or other record of the hearing which the department shall make available for that purpose. The transcript ~~((shall))~~ will be prepared and certified as correct by a registered professional court reporter. Failure to comply with preliminary requirements established under this section shall result in the dismissal of the hearing application without further review.

(b) If a request for an adjudicative proceeding has been timely filed under this section and a transcript of the record has been timely submitted, the department shall promptly provide the presiding officer with copies of all documents and exhibits admitted at the hearing conducted under WAC 246-293-430.

(c) The departmental employee responsible for the department's decision under WAC 246-293-430 shall provide a copy of his or her decision to the presiding officer and may submit documents or evidence not made part of the record at the hearing conducted under WAC 246-293-430. Copies of

all such documents shall be provided to all other parties involved in the proceeding.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-202 Amendment of initiating documents. (1) Prior to the hearing date, initiating documents may be amended (~~(subject to the following conditions)~~):

(a) ~~Subject to the following conditions:~~

~~(i) Amended initiating documents (~~(shall)~~) must meet the requirements of WAC 246-10-201(1)(c).~~

~~((b)) (ii) Amended initiating documents (~~(shall)~~) must be accompanied by the documents described in WAC 246-10-201(2)(c).~~

~~(e) Whenever amended initiating documents are issued, a new interval for response will begin, as described in WAC 246-10-203, unless the respondent requests the time periods set by the original initiating document; and~~

~~(d) Issuance of amended initiating documents ends all obligations of the parties under the prior initiating documents.~~

~~(2) On the hearing date, the initiating documents may be amended subject to the following conditions:~~

~~(a) The documents may be amended upon motion of the state;~~

~~(b) The documents may not be amended without the approval of the presiding officer; and~~

~~(c) Upon motion of a party or upon his/her own initiative, the presiding officer may grant a continuance on all or part of the matter if necessary to afford the respondent an opportunity to prepare a defense to the amended documents).~~

~~(b) Whenever amended initiating documents are served, a new interval of response will begin, as described in WAC 246-10-203. Whenever amended initiating documents are served, the respondent shall file an answer within the time period specified in the amended initiating document, unless otherwise permitted to extend the filing period under WAC 246-10-203(3), or if the case is within thirty days of the scheduled hearing as described in (c) of this subsection.~~

~~(c) If amended initiating documents are filed within thirty days of the scheduled hearing, the presiding officer will convene a status conference to discuss response deadlines and the case schedule. Upon motion of a party and a showing of good cause, or upon his or her own initiative, the presiding officer may grant a continuance on all or part of the matter and may modify the scheduling order as necessary.~~

~~(2) On the hearing date, the initiating documents may be amended subject to the following conditions:~~

~~(a) The documents may be amended upon motion of the state.~~

~~(b) The presiding officer will determine whether amendments are substantive and may grant a continuance on all if necessary to afford the respondent an opportunity to prepare a defense to the amended documents.~~

~~(3) For purposes of this section, motions may be made orally.~~

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-203 Request for adjudicative proceeding. A respondent may respond to an initiating document by filing an application for an adjudicative proceeding or by waiving the opportunity for adjudicative proceeding.

(1) If the respondent wishes to file an application for an adjudicative proceeding:

(a) An application for adjudicative proceeding must be filed in accordance with the following time periods:

(i) For matters under chapter 18.130 RCW, the Uniform Disciplinary Act, within twenty days of service of the initiating documents unless an extension has been granted as provided in subsection (3) of this section; and

(ii) For all other matters in which the program proposes to deny, suspend, revoke, or modify a license, or proposes to impose a civil fine, within twenty-eight days of receipt of the initiating documents, unless otherwise provided by statute; and

(iii) For all other matters, within twenty days of service of the initiating documents, unless otherwise provided by statute.

(b) The application for adjudicative proceeding (~~(shall)~~) must be made either on the Request for Adjudicative Proceeding Form accompanying the initiating documents or by a written document containing at least the following information:

(i) Name and address of the party requesting an adjudicative proceeding;

(ii) Name and address of the attorney representing the party, if any;

(iii) Identification of the portion or portions of the initiating documents contested;

(iv) Summary of the party's position on the portion or portions contested;

(v) Statement of the party's standing to request an adjudicative proceeding under WAC 246-10-107; and

(vi) For matters not under chapter 18.130 RCW and in which the department proposes to deny, suspend, revoke, or modify a license, or proposes to impose a civil fine, the application shall include a copy of the initiating document containing the adverse notice.

(c) By filing a request for adjudicative proceeding, the responding party agrees to appear personally at the adjudicative proceeding or, if otherwise approved in advance by the presiding officer, by telephone, unless appearance is waived by the presiding officer as authorized in WAC 246-10-104(4).

(d) The application for adjudicative proceeding shall contain a response to the initiating documents, indicating whether each charge is admitted, denied, or not contested, and responses shall be subject to the following conditions:

(i) Once admitted or not contested, an allegation may not be denied; and

(ii) An allegation denied or not contested may later be admitted.

(e) When an allegation is admitted or not contested, it (~~(shall)~~) will be conclusively deemed to be true for all further proceedings. No proof of the allegation need be submitted.

(f) The application for adjudicative proceeding shall specify the representative, if any, designated pursuant to WAC 246-10-108 and any request for interpreter. The responding party shall amend the name of the representative and need for interpreter immediately if circumstances change prior to the hearing.

(g) The application for adjudicative proceeding ~~((shall))~~ must be filed at the adjudicative ~~((clerk))~~ clerk's office at the address specified in WAC 246-10-102.

(2) A respondent may waive an adjudicative proceeding and submit a written statement and other documents in defense or in mitigation of the charges. Such waiver and documents shall be filed:

(a) In accordance with the timelines in subsection (1)(a) of this section; and

(b) ~~((At the address indicated))~~ As required in subsection (1)(g) of this section.

(3) For matters under RCW 18.130.180, if the twenty-day limit for filing an application for adjudicative proceeding results in a hardship to the respondent, the respondent may request an extension of not more than sixty days upon a showing of good cause.

(a) The request for extension ~~((shall))~~ must be filed within the twenty day limit and ~~((shall))~~ include:

(i) The reason for the request and the number of days for which the extension is requested; and

(ii) Documentation of the circumstances creating the hardship.

(b) The request ~~((shall))~~ may be granted for a period not to exceed sixty days upon showing of:

(i) Illness of the respondent; or

(ii) Absence of the respondent from the county of residence or employment; or

(iii) Emergency in the respondent's family; or

(iv) Other good cause as determined by the presiding officer.

(c) If a request for extension is denied, the respondent shall have ten days from service of the order denying the extension or twenty days from service of the initiating documents, whichever is longer, to file an application for adjudicative proceeding.

AMENDATORY SECTION (Amending WSR 96-21-027, filed 10/7/96, effective 11/7/96)

WAC 246-10-204 Default. (1) If a party fails to respond to initiating documents according to WAC 246-10-203, that party will be deemed to have waived the right to a hearing, and the secretary shall enter a final order without further contact with that party.

(2) If a party requests an adjudicative proceeding but fails to appear, without leave to do so, at a scheduled prehearing conference, the presiding officer may issue an order of default. The order ~~((shall))~~ must include notice of opportunity to request that the default order be vacated pursuant to RCW 34.05.440(3). Unless vacated, a default order under this subsection shall be grounds for the presiding officer to proceed to decide the matter in the absence of the respondent and without additional notice to the respondent and to issue ~~((a final))~~ an initial order.

(3) If a party requests an adjudicative proceeding but fails to appear at the hearing, the presiding officer may issue an order of default in the same manner as subsection (2) of this section, or may proceed to hear the matter in the absence of the party and issue ~~((a final))~~ an initial order.

(4) Initial and final orders entered under this section shall meet the requirements of WAC 246-10-702 and shall contain:

(a) Findings of fact and conclusions of law based upon prima facie proof of the allegations contained in the initiating documents;

(b) Proof of service of or a good faith attempt to serve initiating documents and appropriate notices;

(c) A finding that there is no reason to believe that the party in default is in active military service;

(d) The penalties or conditions imposed by the order; and

(e) Notice of the opportunity to request;

(i) Reconsideration of a final order pursuant to RCW 34.05.470; or

(ii) Administrative review of an initial order pursuant to RCW 34.05.464.

(5) Initial and final ~~((and))~~ default orders entered under this section shall be served upon the parties in accordance with WAC 246-10-109.

(6) Notwithstanding subsections (1) through (5) of this section, if a party fails to respond to an initiating document issued consistent with the requirements of RCW 43.70.095 or 43.70.115, the initiating document shall become a final order upon its effective date unless the initiating document otherwise provides.

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-205 Scheduling orders. (1) Within thirty days after receipt of the application for adjudicative proceeding, ~~((the office of professional standards, or other designee of the secretary;))~~ the secretary's designee shall:

(a) Approve the application for full adjudicative procedure and issue and serve on the parties a scheduling order specifying the course of the proceeding; or

(b) Approve the application for a brief adjudicative procedure and issue and serve a notice of the date by which any additional written materials are to be submitted for consideration; or

(c) Deny the application according to RCW 34.05.416.

(2) For matters under chapter 18.130 RCW, the scheduling order ~~((shall contain))~~ must specify:

(a) The date, time, and place of ~~((a settlement conference;))~~ a prehearing conference~~((s;))~~ and the hearing;

(b) The deadlines for completion of discovery and submission of prehearing motions; and

(c) The name, address, and telephone number of the assistant attorney general or other department representative who will represent the ~~((state))~~ department in the matter.

(3) The scheduling order may be modified by order of the presiding officer upon ~~((his/her))~~ his or her own initiative or upon motion of a party. Any request for a change ~~((in the))~~ to the initial scheduling order ~~((shall))~~ must be made by motion as provided in WAC 246-10-403.

(4) The presiding officer may waive establishing dates for the (~~settlement conference~~) completion of discovery, submission of prehearing motions, and the prehearing conference, if, in the discretion of the presiding officer, those proceedings are not necessary or appropriate in a particular matter or type of case. However, either party may request by motion to the presiding officer that any or all of the dates be set.

(5) Dates contained in the scheduling order may be changed by the adjudicative (~~clerk~~) clerk's office upon written request of either party made within fifteen days of issuance of the first scheduling order. All other changes must be made by motion pursuant to WAC 246-10-403.

AMENDATORY SECTION (Amending WSR 93-13-005, filed 6/3/93, effective 7/4/93)

WAC 246-10-301 Conduct of emergency adjudicative proceedings. (1) Except as otherwise required by law, summary action may be taken under chapter 18.130 RCW only after a review by the secretary or designee of such evidence, including affidavits or declarations, if appropriate, to establish:

(a) The existence of an immediate (~~danger~~) threat to the public health, safety, or welfare;

(b) The department's ability to address the (~~danger~~) threat through a summary action; and

(c) The summary action is necessary to address the (~~danger~~) threat.

(2) Except as otherwise required by law, summary action may be taken under chapter 34.05 RCW only after a review by the secretary or designee of such evidence, including affidavits or declarations, if appropriate, to establish:

(a) The existence of an immediate danger to the public health, safety, or welfare;

(b) The department's ability to address the danger through a summary action; and

(c) The summary action is necessary to address the danger.

(3) No notice to any person potentially affected by a summary action (~~shall be~~) is required prior to issuance of a summary action.

AMENDATORY SECTION (Amending WSR 93-13-005, filed 6/3/93, effective 7/4/93)

WAC 246-10-303 Form and content of summary actions. (1) A summary action (~~shall~~) must be entered in the form of an order containing findings of fact, conclusions of law, and the summary action imposed, as well as a statement of policy reasons for the decision.

(2) Except as otherwise required by law, a summary action imposed by emergency adjudicative proceeding (~~shall~~) under chapter 18.130 RCW must be limited to those actions necessary to alleviate an immediate (~~danger~~) threat to the public health, safety, or welfare.

(3) Except as otherwise required by law a summary action imposed by emergency adjudicative proceedings under chapter 34.05 RCW must be limited to those actions necessary to alleviate an immediate danger to the public health, safety, or welfare.

(4) Initiating documents, and all other documents required by WAC 246-10-201(~~shall~~) or 246-10-202, must accompany a summary action order when served.

AMENDATORY SECTION (Amending WSR 09-03-089, filed 1/20/09, effective 2/20/09)

WAC 246-10-304 Adjudicative proceedings upon summary action. (1) Except as identified in subsection (2) of this section, following a summary action taken by the department, the respondent may:

(a) Request a prompt adjudicative proceeding conducted in accordance with this chapter; or

(b) Waive the prompt adjudicative proceeding and request a regularly scheduled adjudicative proceeding conducted in accordance with this chapter; or

(c) Waive the right to an adjudicative proceeding and submit a written statement to be considered prior to the entry of the final order; or

(d) Waive the opportunity to be heard.

(2) For summary actions to suspend, restrict, or limit the practice of a license holder of a secretary profession, the respondent may:

(a) Request a hearing as provided in RCW 18.130.090 and request a show cause hearing conducted in accordance with RCW 18.130.135 and WAC 246-10-307; or

(b) Request a regularly scheduled adjudicative proceeding conducted in accordance with this chapter; or

(c) Waive the right to an adjudicative proceeding and submit a written statement to be considered prior to the entry of the final order; or

(d) Waive the opportunity to be heard.

(3) In this section, "secretary profession" means a health care profession for which the secretary of health is the disciplining authority under RCW 18.130.040 (2)(a).

AMENDATORY SECTION (Amending WSR 09-03-089, filed 1/20/09, effective 2/20/09)

WAC 246-10-305 Opportunity for prompt adjudicative proceeding. Except as provided in WAC 246-10-304(2), (~~any~~) a respondent affected by a summary action (~~shall~~) will be provided the opportunity to request a prompt adjudicative proceeding.

(1) Notice of the opportunity (~~shall~~) will be provided in the notice of opportunity to defend against the allegations that are the basis for the summary action. The form for requesting an adjudicative proceeding (~~shall~~) must include the option of requesting a prompt adjudicative proceeding.

(2) (~~Any~~) A respondent affected by a summary action may request a prompt adjudicative proceeding, may elect a regularly scheduled adjudicative proceeding instead of a prompt adjudicative proceeding, or may waive the opportunity for adjudicative proceeding in accordance with WAC 246-10-203.

(3) (~~Any~~) A request for a prompt adjudicative proceeding must be filed within ten days of the service of the summary action.

(4) If requested by the respondent, a prompt adjudicative proceeding (~~shall~~) must be conducted within twenty days of service of a summary action.

(5) Regardless of whether a prompt adjudicative proceeding is requested, the matter ~~((shall))~~ must be resolved as quickly as feasible in accordance with all other applicable rules.

AMENDATORY SECTION (Amending WSR 09-03-089, filed 1/20/09, effective 2/20/09)

WAC 246-10-307 Show cause hearing. (1) A license holder's request for a show cause hearing must be filed within twenty days of the service of the summary action. A license holder must also respond to the statement of charges by requesting a hearing or an extension of time as provided in RCW 18.130.090.

(2) The show cause hearing will be conducted within fourteen days of the license holder filing the show cause hearing request.

(3) ~~((By noon on the fourth calendar day after filing the show cause hearing request))~~ Unless otherwise specified by the presiding officer, the license holder must file, and deliver a copy to the department's attorney, any documents or written testimony to be admitted into evidence at the show cause hearing by noon on the fourth business day after filing the show cause hearing request.

(4) ~~((By noon on the eighth calendar day after the date the show cause hearing request was filed, but no less than the close of business two business days before the show cause hearing))~~ Unless otherwise specified by the presiding officer, the department must file, and deliver a copy to the license holder's attorney or to the license holder if not represented by counsel, any rebuttal documents or written testimony to be admitted into evidence at the show cause hearing by noon on the seventh calendar day after the date the show cause hearing request was filed, but no less than the close of business two business days before the show cause hearing.

(5) In reviewing the order of summary action, the presiding officer will consider the statement of charges, the motions and documents supporting the request for summary action, the license holder's answer to the statement of charges, ~~((any))~~ documentary evidence or written testimony presented by the license holder and department in rebuttal that is timely filed pursuant to subsections (3) and (4) of this section, and unless waived, the parties will be given an opportunity for oral argument.

(6) ~~((At the show cause hearing, the department has the burden of proving it is more probable than not that the license holder poses an immediate threat to the public health and safety.~~

~~((7))~~ In cases under RCW 18.130.050 (8)(a) and 18.130.-370, the department has the burden of proving at the show cause hearing that the licensee is prohibited from practicing a health profession in another state, federal, or foreign jurisdiction and that the conduct is substantially equivalent to unprofessional conduct. A copy of the order, stipulation, or agreement from a competent authority in any state, federal, or foreign jurisdiction showing that a license is prohibited from practicing their health profession is prima facie evidence that the requirements of RCW 34.05.479 (1) and (2) have been met.

(7) In cases under RCW 18.130.050 (8)(b), the department has the burden of proving at the show cause hearing that the licensee is prohibited from employment in the care of vulnerable adults based upon a department of social and health services' final finding of abuse or neglect of a minor or abuse or abandonment, neglect, or financial exploitation of a vulnerable adult.

(8) The presiding officer will issue an order, and may overturn, uphold, or amend the summary suspension or restriction.

~~((8))~~ (9) Within forty-five days of a determination by the secretary to sustain the summary suspension or place restrictions on the license, the license holder may request a full hearing on the statement of charges on the merits of the disciplining authority's decision to suspend or restrict the license. A full hearing must be provided within forty-five days of receipt of the request for a hearing, unless stipulated otherwise.

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-401 Settlement conference. (1) Following a request for an adjudicative proceeding, a settlement conference may be ~~((scheduled as provided in WAC 246-10-205))~~ held if settlement is not achieved through written documents. The parties shall ~~((be notified of))~~ arrange the date, time, and place of the settlement conference.

(2) The purpose of the settlement conference ~~((shall be))~~ is to attempt to reach agreement on the issues and on a proposed order to be entered. Any agreement of the parties is subject to final approval by the presiding officer or review officer.

(3) The respondent shall attend the settlement conference as scheduled and may also be represented as provided in WAC 246-10-108. Representatives of the department will also attend. Other persons may attend by agreement of the parties. Attendance may be in person or by phone.

(4) Either party may bring documents or other materials to the settlement conference for the purpose of settlement negotiations. No testimony will be taken. No documents or information submitted at the settlement conference will be admitted at the adjudicative proceeding unless stipulated by the parties or otherwise admitted into evidence by the presiding officer.

(5) If a settlement offer has been made in writing to the respondent and it is signed and returned by the respondent to the adjudicative ~~((clerk office prior to the settlement conference))~~ clerk's office, all subsequent dates set in the scheduling order are ~~((continued))~~ stayed or stricken pending final review of the settlement by the presiding officer.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-402 Discovery. The parties ~~((are encouraged to))~~ should exchange information and documents related to the case prior to the adjudicative proceeding. Formal discovery is obtained as follows:

(1) Methods, scope and limits:

(a) Parties may obtain discovery by production of records or things; deposition upon oral examination; requests for admission; or, if ordered by the presiding officer, written interrogatories.

(b) Unless otherwise limited by order of the presiding officer in accord with these rules, the scope of discovery shall be as follows:

(i) Parties may obtain discovery regarding any matter not privileged, which is relevant to the subject matter in the pending action. It is not grounds for objection that the information sought will be inadmissible at the adjudicative proceeding if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(ii) The frequency or extent of use of the discovery methods (~~(set forth)~~) established in these rules shall be limited by the presiding officer if the presiding officer determines that:

(A) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive; or

(B) The party seeking discovery has had an ample opportunity by discovery to obtain the information sought; or

(C) The discovery is unduly burdensome or expensive, taking into account the needs of the case, limitations of the parties' resources, and the importance of the issues at stake.

(iii) The presiding officer may limit discovery upon his or her own initiative after reasonable notice or pursuant to a motion submitted by a party.

(2) Production of records, documents or things:

(a) Upon written request of a party the opposing party shall identify experts and other witnesses to be called at a hearing and shall provide other information necessary to enable the party to conduct depositions of the witnesses.

(b) Any party may serve on any other party a request, which must be signed by the party or designated representative:

(i) To produce and permit the party making the request or designee to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of discovery and which are in the possession, custody or control of the party upon whom the request is served; or

(ii) To permit entry onto designated land or other property which is in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying, photographing, testing or sampling the property or designated object or operation thereon which is within the scope of discovery.

(c) Any party who produces documents for inspection shall produce them as they are kept in the usual course of business or may, if the parties agree, organize and label them to correspond with the categories in the request.

(d) The party upon whom a request is made may, by motion to the presiding officer, move for an order denying the request to produce or modifying the conditions of the request. Denial of the request or change in the conditions of the request shall be within the discretion of the presiding officer and shall be made by written order.

(3) Depositions may be taken subject to the following conditions:

(a) Within the United States or a territory or insular possession subject to the dominion of the United States, depositions (~~(shall)~~) must be taken before an officer authorized to administer oaths by the state of Washington or of the place where the examination is held. A presiding officer may, in his or her discretion or following motion of a party, preside at the deposition. Within a foreign country, depositions (~~(shall)~~) must be taken before a secretary of an embassy or legation, consul general, vice-consul or consular agent of the United States, or a person designated by the presiding officer or agreed upon by the parties by stipulation in writing filed with the (~~(office of professional standards)~~) adjudicative clerk's office. Except by stipulation, no deposition shall be taken before any person who is a party or a privy of a party, or a privy of any representative of a party, or who is financially interested in the proceeding.

(b) A party desiring to take the deposition of a person upon oral examination shall give reasonable notice of not less than five days in writing to the person to be deposed and to the opposing party. The notice (~~(shall)~~) must state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a description sufficient to identify the person to be examined or the particular class or group to which the person to be examined belongs. On motion of a party upon whom the notice is served, the presiding officer may for good cause shown, lengthen or shorten the time.

(c) After notice is served for taking a deposition, or upon motion of the presiding officer or upon motion reasonably made by any party or by the person to be examined, and upon notice and for good cause, the presiding officer may issue an order that the deposition (~~(shall)~~) may not be taken or that it be taken subject to specified restrictions, conditions, or limitations.

(d) Depositions (~~(shall)~~) must be recorded.

(i) The officer before whom the deposition is taken shall put the witness on oath or affirmation and shall personally or by someone acting under the officer's direction and in the officer's presence, record the testimony.

(ii) The officer or person acting under the officer's direction shall transcribe the testimony at the request of any party, provided that any expenses (~~(shall be)~~) are paid by the requesting party.

(iii) The transcribed testimony (~~(shall)~~) must be submitted to the person deposed for review and signature, unless review and signature are waived by that person. The officer shall append to the transcript any changes in form or substance that may be submitted by the parties.

(iv) Copies of the transcribed and, unless review and signature has been waived, signed testimony (~~(shall)~~) will be served upon the person deposed and upon the parties.

(e) If the parties so stipulate in writing or on the record, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken, may be used as any other deposition.

(4) Following motion of a party and opportunity for response by the opposing party, the presiding officer may order a party to respond to written interrogatories and may order that the interrogatories be subject to specified restriction, condition, or limitation.

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-403 Motions. (1) The presiding officer shall rule on motions. The presiding officer may rule on motions without oral argument or may request or permit the parties to argue the motion in person or by telephone. Oral argument may be limited in time at the discretion of the presiding officer.

(2) All prehearing motions, including discovery and evidentiary motions, ~~((shall))~~ must be made in writing and filed with the adjudicative ~~((clerk office prior to))~~ clerk's office and served on all other parties by the dates set in the scheduling order.

(3) Motions for continuance must be made in writing and filed prior to the dates set in the scheduling order. If the adjudicative proceeding is scheduled to take place fewer than twenty days from service of the scheduling order, motions for continuance must be made within ten days of service of the scheduling order, but in no event fewer than five days prior to the hearing. Continuances may be granted by the presiding officer for good cause.

(4) The presiding officer may grant a continuance when a motion for continuance is not submitted within the time limits contained in subsection (3) of this section for good cause.

(5) The following is the recommended format for motions:

(a) A succinct statement of the facts contended to be material;

(b) A concise statement of the issue, issues or law upon which the presiding officer is requested to rule;

(c) The specific relief requested by the moving party;

(d) If the motion requires the consideration of facts or evidence not appearing on the record, the moving party shall also serve and file copies of all affidavits, declarations, and photographic or documentary evidence presented in support of the motion;

(e) The legal authority upon which the motion is based; and

(f) A proposed order may accompany the motion, and should contain findings of fact and conclusions of law.

(6) The moving party shall file the motion, and the accompanying affidavits, declarations, and photographic or documentary evidence when necessary, with the adjudicative ~~((clerk))~~ clerk's office and shall serve the motion, and the accompanying affidavits, declarations, and photographic or documentary evidence when necessary, on all other parties. The motion may not exceed twenty-five pages without permission of the presiding officer.

(7) The opposing party shall file with the adjudicative ~~((clerk))~~ clerk's office, and serve upon the moving party, a responsive memorandum, and accompanying affidavits, declarations, and photographic or documentary evidence when necessary, no later than eleven days following service of the motion, unless otherwise ordered by the presiding officer. A responsive memorandum may not exceed twenty-five pages without permission of the presiding officer.

(8) The moving party may file with the adjudicative ~~((clerk))~~ clerk's office, and serve upon the opposing party, a reply memorandum no later than five days following service

of the responsive memorandum, unless otherwise ordered by the presiding officer. A reply memorandum may not exceed fifteen pages without permission of the presiding officer.

(9) Unless otherwise ordered by the presiding officer, all motions ~~((shall))~~ must be decided without oral argument. A party requesting oral argument on a motion shall so indicate by typing "ORAL ARGUMENT REQUESTED" in the caption of the motion or the responsive memorandum. If a request for oral argument is granted, the presiding officer shall notify the parties of the date and time of the argument and whether the argument will be in person or by telephone conference.

(10) Motions to shorten time or emergency motions ~~((shall))~~ must be exceptions to the rule, and a party may only make such motions in exigent or exceptional circumstances. When making such a motion, the moving party shall:

(a) Suggest a date and time when the moving party seeks to have the presiding officer hear the motion to shorten time, which should be at least forty-eight hours after filing;

(b) Suggest a date and time when the moving party seeks to have the presiding officer consider the merits of the underlying motion;

(c) Describe the exigent or exceptional circumstances justifying shortening of time in an affidavit, declarations, or ~~((a))~~ memorandum accompanying the motion;

(d) Certify that the motion to shorten time and the underlying motion have been served on all other parties prior to the filing of the motion with the presiding officer. Any opposition to the motion to shorten time must be served and filed within twenty-four hours of the service of the motion. If the presiding officer grants the motion to shorten time, the presiding officer shall notify the parties of the date by which the responsive memorandum to the underlying motion ~~((shall))~~ must be served and filed.

(11) All motions will be decided as soon as practical, but not more than thirty days following the filing of the motion. If the presiding officer will not decide the motion within this time, the presiding officer shall notify the parties in writing of the date by which the motion will be decided.

(12) If a party serves a motion or responsive memorandum by mail, pursuant to WAC 246-10-109, ~~((then))~~ three days ~~((shall))~~ will be added to the time within which the opposing party must file and serve the responsive or reply memorandum. Service by electronic telefacsimile transmission (fax) upon each party is permitted upon agreement of the parties, with proof of confirmation of service to be filed with the presiding officer.

(13) All computations of time ~~((shall))~~ must be calculated pursuant to WAC 246-10-105.

(14) Departmental motions for summary actions are exempted from all requirements of this rule.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-404 Prehearing conference. (1) As provided in WAC 246-10-205, the presiding officer may schedule ~~((a))~~ one or more prehearing conferences to be held prior to the hearing. Parties ~~((shall))~~ will be notified of the time and place of the first prehearing conference in the scheduling order.

(2) The presiding officer shall conduct prehearing conferences and shall issue rulings related to prehearing motions and evidentiary issues. The rulings shall govern the conduct of subsequent proceedings.

(3) ~~((The))~~ A prehearing conference may be recorded as ordered by the presiding officer. All offers of proof and objections concerning matters raised at the prehearing conference must be made on the record at the prehearing conference.

(4) Following the final prehearing conference, the presiding officer shall issue a written prehearing order which will:

(a) Identify the issues to be considered at the hearing and indicate which party has the burden of proof on these issues;

(b) Specify the facts which are admitted or not contested by the parties;

(c) Identify those documents and exhibits that will be admitted at hearing, and those which may be distributed prior to the hearing;

(d) Identify expert and lay witnesses that may be called at hearing and the issues to which those witnesses may testify;

(e) Rule on motions;

(f) ~~((Accept amendments to the pleadings;~~

~~(g)))~~ Address such other issues or matters as may be reasonably anticipated to arise and which may aid in the disposition of the proceedings; and

~~((H))~~ (g) Rule on objections made in any preserved testimony.

(5) Following the prehearing conference, the presiding officer may issue an order directing that the matter be heard as a brief adjudicative proceeding, pursuant to WAC 246-10-501~~((, et seq))~~ through 246-10-504.

(6) Documentary evidence not offered in the prehearing conference ~~((shall))~~ will not be received into evidence at the adjudicative proceeding in the absence of a clear showing that the offering party had good cause for failing to produce the evidence at the prehearing conference.

(7) Witnesses not identified during the prehearing conference ~~((shall))~~ will not be allowed to testify at the adjudicative proceeding in the absence of a clear showing that the party offering the testimony of such witness had good cause for failing to identify the witness at the prehearing conference.

(8) If the authenticity of documents submitted at the prehearing conference is not challenged at the prehearing conference, the documents shall be deemed authentic. However, a party ~~((shall))~~ will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to object at the prehearing conference.

(9) Nothing in these rules ~~((shall))~~ prohibit the presiding officer from conducting a conference at any time, including during the hearing. The presiding officer shall state on the record the results of such conference.

(10) A party bound by a stipulation or admission of record may withdraw it in whole or in part only upon a determination by the presiding officer or hearing officer that:

(a) The stipulation or admission was made inadvertently or as a bona fide mistake of fact or law; and

(b) The withdrawal will not unjustly prejudice the rights of the other parties.

(11) In an appeal to superior court involving issues addressed in the prehearing order, the record of the prehearing conference, written motions and responses, the prehearing order, and any orders issued by the presiding officer pursuant to WAC 246-10-403, shall be the record.

AMENDATORY SECTION (Amending WSR 93-13-005, filed 6/3/93, effective 7/4/93)

WAC 246-10-405 Protective orders. (1) The presiding officer shall issue a protective order to preserve confidentiality related to health care records or provider-client information as required under state and federal law including, but not limited to, chapter 70.02 RCW; Public Law No. 104-191, 110 Statute 1936 (Health Insurance Portability and Accountability Act (HIPAA)); and 45 C.F.R. Part 164.

(2) The presiding officer may issue ((a)) additional protective orders at his or her discretion:

~~((H))~~ (a) To protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense;

~~((2) To preserve confidentiality related to health care records or provider-client information;~~

~~(3))~~ (b) To protect examination processes;

~~((4))~~ (c) To protect the identity of a person supplying information to the department where the person indicates a desire for nondisclosure unless that person testifies or has been called to testify at an adjudicative proceeding; or

~~((5))~~ (d) To comply with applicable state or federal law.

(3) Parties submitting exhibits for administrative proceedings are required to redact all exhibits in a manner consistent with any protective order issued by the presiding officer. The clerk's office shall not accept documents that are not redacted consistent with the protective order.

AMENDATORY SECTION (Amending WSR 14-13-101, filed 6/17/14, effective 7/18/14)

WAC 246-10-501 Application of brief adjudicative proceedings. (1) If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

(a) A determination whether an applicant for a professional, business, or facility license meets the minimum criteria for an unrestricted license and the department proposes to deny such a license or to issue a restricted license;

(b) An application to approve a water system plan under WAC 246-290-100;

(c) An application to approve a project report under WAC 246-290-110;

(d) An application for source approval under WAC 246-290-130;

(e) An application to approve construction documents under WAC 246-290-120;

(f) An application to approve an existing Group A water system under WAC 246-290-140;

(g) An application for source approval under WAC 246-291-100 or 246-291-110;

(h) An application to approve a design report under WAC 246-291-120;

(i) An application to approve an existing Group B water system under WAC 246-291-130;

(j) An application to approve a water system plan under WAC 246-291-140;

(k) A decision under WAC 246-293-190;

(l) A decision with respect to service area conflicts under WAC 246-293-430;

(m) An application for approval as a satellite management agency under WAC 246-295-040;

(n) A civil penalty imposed under RCW 70.119A.040 when the amount of the civil penalty does not exceed two thousand five hundred dollars;

(o) A request to bank nursing home beds under RCW 70.38.111(8) and 70.38.115(13);

(p) A determination as to whether a person is in compliance with the terms and conditions of a final order previously issued by the department, except final orders under RCW 18.130.110;

(q) Any approval of a school or curriculum when such approval by the department is required or authorized by statute or rule;

(r) A determination whether a license holder requesting renewal has submitted all required information and meets minimum criteria for license renewal;

(s) A decision to deny, modify, or impose conditions upon an operating permit under WAC 246-294-050;

(t) A decision to deny or revoke certification as a home care aide when a long-term care worker is disqualified from working with vulnerable persons under chapter 74.39A RCW; ~~(($\text{\textcircled{r}}$))~~

(u) A civil penalty imposed against a health carrier or third-party administrator under RCW 70.290.060;

(v) A decision to deny or revoke a credential under RCW 18.108.085(3);

(w) An action to suspend a credential under RCW 18.130.125 or 18.130.127;

(x) Issuance of written citation and assessment of a fine under RCW 18.130.230;

(y) An action to invalidate a credential that was issued to a person who failed to meet credentialing requirements;

(z) A decision to withdraw a credential issued in error. For the purposes of this rule, "credential issued in error" means a credential issued to an individual who did not fully complete the application process or meet the credentialing requirements yet was inadvertently granted a credential; or

(aa) A decision to deny a request for a list of applicants for professional licenses or of professional licensees for commercial purposes under RCW 42.56.070(8).

(2) If an adjudicative proceeding is requested, in a matter not listed in subsection (1) of this section, a brief adjudicative proceeding may be conducted in the discretion of the presiding officer when it appears that protection of the public interest does not require that the department provide notice and an opportunity to participate to persons other than the parties and:

(a) Only legal issues exist; or

(b) Both parties have agreed to a brief adjudicative proceeding.

AMENDATORY SECTION (Amending WSR 96-21-027, filed 10/7/96, effective 11/7/96)

WAC 246-10-502 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for a professional, business, or facility license, or for approval of a school or curriculum (~~shall~~) must consist of (~~the following~~):

(a) The application for the license or approval and all associated documents;

(b) All documents relied on by the program in proposing to deny the application;

(c) All correspondence between the applicant for license or approval and the program regarding the application.

(2) Preliminary record.

(a) The preliminary record with respect to decisions made under WAC 246-290-100, 246-290-110, 246-290-120, 246-290-130, 246-290-140, (~~246-291-100, 246-291-110, 246-291-120, 246-291-130~~) 246-291-120, 246-291-125, 246-291-280, and 246-291-140 (~~shall~~) must consist of the decision document, all documents constituting the applicant's submittal and such other documents as the applicant or the (~~departmental employee reviewing the submittal~~) department may wish to include in the preliminary record.

(b) The preliminary record with respect to decisions made under WAC 246-293-190.

(i) If proceedings are required and have been conducted by local agencies under the applicable coordinated water system plan, the preliminary record shall consist of the record submitted to the department under WAC 246-10-124(3).

(ii) If hearings are not required or have not been conducted by local agencies under the applicable coordinated water system plan or if the external boundaries of the coordination act area have been approved but a coordinated water system plan has not been adopted, then the preliminary record shall consist of such documents as the presiding officer may solicit from the affected parties.

(c) The preliminary record with respect to a decision made under WAC 246-293-430 shall consist of the record submitted to the presiding officer under WAC 246-10-124 (4).

(d) The preliminary record with respect to a decision under WAC 246-294-050 shall consist of:

(i) The permit, if any;

(ii) All documents relied upon by the program in proposing to deny, modify, or impose conditions upon the permit; and

(iii) The decision document.

(e) The preliminary record with respect to decisions made under WAC 246-295-040 shall consist of the decision document, all documents constituting the applicant's submittal, comments submitted by the county, and such other documents as the applicant or the department may wish to include in the preliminary record.

(f) The preliminary record with respect to civil penalties imposed under RCW 70.119A.040 shall consist of the notice of imposition of penalties, the departmental order, if any, all documentation of communication between the program and the person or persons incurring the civil penalties regarding the violation or violations for which the civil penalties were imposed, and such other documents as the person or persons

incurring the civil penalties or the department may wish to include in the preliminary record.

(g) The preliminary record with respect to an action to deny or revoke a credential under RCW 18.108.085(3) shall consist of a certified copy of the court documents reflecting a conviction, any documentation regarding a certification of restoration of opportunity under RCW 9.97.020, and such other documents as the person making the request and the department may wish to include in the preliminary record which are relevant to the issue of the applicant's or licensee's identity.

(h) The preliminary record with respect to an action to suspend a credential under RCW 18.130.125 or 18.130.127 shall consist of the report from the lending agency to the department of the licensee's nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship, and such other documents as the person making the request and the department may wish to include in the preliminary record.

(i) The preliminary record with respect to the issuance of a written citation and assessment of a fine under RCW 18.130.230 shall consist of the citation, as described in RCW 18.130.230(2), the request by the disciplining authority to produce documents, records, or other items within the licensee's control, the licensee's request for extension of time and the disciplining authority's response if a request for extension of time was made, and such other documents as the licensee or disciplining authority may wish to include in the preliminary record with respect to whether or not the licensee timely provided the items requested.

(j) The preliminary record with respect to a decision to withdraw a credential issued in error shall consist of the application for credential and any associated documents, all documents relied on by the program in proposing to withdraw the credential, and all correspondence between the person to whom the credential was issued in error and the program regarding the application or credential.

(k) The preliminary record with respect to a decision to deny a request for a list of applicants for professional licenses or of professional licensees for commercial purposes shall consist of the written request for the list, any other documents relied on by the program in proposing to deny the request, all correspondence regarding the request between the person making the request and the department, and such other documents as the person making the request and the department may wish to include in the preliminary record.

(3) The preliminary record with respect to compliance with prior department orders shall consist of:

(a) The official department file of the proceeding in which the order was issued;

(b) All matters submitted by the person to whom the order is directed purporting to demonstrate compliance with the order;

(c) All documents relied on by the department in asserting noncompliance; and

(d) All correspondence between the department and the person to whom the order is directed respecting compliance.

(4) The preliminary record with respect to matters submitted to a brief adjudicative proceeding under WAC 246-10-501(2) shall be as agreed by the parties.

(5) For the purposes of this section, "decision document" shall mean one or more documents that provide notice to the affected party of the department's action, and that contain(s) the information provided by an initiating document.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-504 Effectiveness of orders on brief adjudicative proceedings. (1) Initial orders on brief adjudicative proceedings (~~shall~~) become final twenty-one days after service of the initial order unless:

(a) Administrative review has been requested pursuant to WAC 246-10-701; or

(b) On his or her own initiative, a designee of the secretary authorized to issue final orders determines to review the matter and, within twenty-one days of service of the initial order, provides notice to the parties of the date by which a determination (~~shall~~) will be made.

(2) If administrative review is taken under subsection (1) of this section, each party (~~shall~~) must be provided an opportunity to state its view of the matter, and the (~~presiding~~) review officer shall issue a written order containing findings of fact, conclusions of law, and order (~~which shall~~) must be entered and served upon the parties within twenty days of service of the initial order or the request for review whichever is later.

(3) A request for review is deemed to be denied if the (~~presiding~~) review officer does not act on the request within twenty days after the request is submitted.

(4) If administrative review is taken under subsection (1) of this section, the (~~presiding~~) review officer may convert the matter to a full adjudicative proceeding.

NEW SECTION

WAC 246-10-6035 Evidence in a certificate of need case. When a party contests the approval or denial of an application for a certificate of need, the evidence at hearing is limited to information and materials:

(1) Provided to the certificate of need program (program) during the application process by the applicant or an interested or affected party;

(2) Collected by the program during the application process;

(3) Timely submitted and meeting the grounds for reconsideration of a program decision under WAC 246-310-560; or

(4) Intended to clarify, explain, or correct evidence admitted under subsections (1) through (3) of this section. Evidence will be admitted under this subsection only if:

(a) The evidence is of consequence to the determination of approving or denying the application; and

(b) The evidence relates to facts in existence prior to whichever of the following occurred last:

(i) The conclusion of a public hearing held in accordance with WAC 246-310-180; or

(ii) The end of the public comment period.

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-605 Issuance of final order. If the adjudicative proceeding is conducted by a presiding officer or review officer authorized to make the final decision, the presiding officer or review officer shall:

- (1) Issue a final order containing findings of fact and conclusions of law and an order; and
- (2) Cause the adjudicative ((~~clerk~~) clerk's) office to serve a copy of the order on each party and any designated representative of the party.

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-608 Initial order. If the adjudicative proceeding is conducted by a presiding officer who is not authorized to make the final decision, the presiding officer shall:

- (1) Issue an initial order containing proposed findings of fact, conclusions of law, and a proposed order;
- (2) Cause the adjudicative ((~~clerk~~) clerk's) office to serve a copy of the initial order on each party and any designated representative of a party; and
- (3) Forward the initial order and record of the adjudicative proceeding to the adjudicative ((~~clerk~~) clerk's) office.

AMENDATORY SECTION (Amending WSR 14-03-049, filed 1/9/14, effective 2/9/14)

WAC 246-10-701 Appeal from initial order and initial order becoming a final order. (1) Any party may file a written petition for administrative review of an initial order issued under WAC 246-10-503 or 246-10-608 stating the specific grounds upon which exception is taken and the relief requested.

- (2) The secretary, upon his or her own motion, may petition for administrative review of an initial order.
- (3) Petitions for administrative review must be served upon the opposing party and filed with the adjudicative ((~~clerk~~) clerk's) office within twenty-one days of service of the initial order.
- (4) The opposing party may file a response to a petition for administrative review filed as provided in this section. The response shall be filed at the adjudicative ((~~clerk~~) clerk's) office. The party filing the response shall serve a copy of the response upon the party requesting administrative review. If the initial order was entered pursuant to WAC 246-10-503, the response shall be filed within ten days of service of the petition. In all other matters, the response shall be filed within twenty days of service of the petition.

(5) If a party or the secretary does not request timely administrative review of an initial order as described ((~~above~~) in this section, or a request for administrative review is dismissed), an initial order becomes a final order at 5:00 p.m. on the twenty-first calendar day after the adjudicative ((~~clerk~~) clerk's) office serves the initial order.

NEW SECTION

WAC 246-10-70105 Requesting a clerical clarification or correction of an initial order. (1) Prior to an initial order becoming a final order, any party may file a request with the presiding officer who issued the initial order seeking clarification of a term of the initial order or correction of a clerical error.

(2) The request for clarification or correction must be filed and served on the opposing party within five days of the service of the initial order. The opposing party must respond within five days of service of the request for clarification or correction. Both parties must follow the service and filing requirements in WAC 246-10-109.

(3) Filing a request for clarification or correction of an initial order freezes the timelines for filing a petition for administrative review with the review officer.

(4) For purposes of this section:

(a) A clerical clarification is a request to clarify an unclear or ambiguous term of the initial order to facilitate implementation of the order and does not change the intent of the initial order.

(b) A clerical error is a mistake that when corrected does not change the intent of the initial order.

(5) The presiding officer corrects clerical errors in the initial order by entering and serving a second decision referred to as a corrected initial order.

(6) Nothing in this section affects a party's right to file a petition for administrative review of the initial order as allowed for under this chapter.

(7) The presiding officer's response to the request for clarification or correction, if the request is denied, must be part of the record on review.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-702 Final orders. (1) The form and content of final orders ((~~shall be as follows~~)):

(a) ((~~Final orders shall~~) Must contain findings of fact, conclusions of law, and an order, and ((~~shall~~) must be signed by the presiding officer or review officer.

(b) ((~~Final orders~~) May adopt by reference the initial order in whole or in part.

(c) ((~~Final orders~~) May modify or revise the initial order in whole or in part.

(2) Final orders ((~~shall~~) must be served upon the parties and their representatives as provided in WAC 246-10-109.

(3) Final orders ((~~shall~~) must be issued following:

(a) A review of the record;

(b) A review of the initial order, if any;

(c) A review of any request for administrative review of the initial order and any response thereto; and

(d) Consideration of protection of the public health and welfare.

(4) Unless a later date is stated in the final order, final orders ((~~shall~~) will be effective when entered but a party ((~~shall not be~~) is not required to comply with a final order until the order is served upon that party.

(5) Final orders may contain orders that specified portions of the agency record ((~~shall not be~~) are not disclosed as

public records if necessary to protect privacy interests, the public welfare, or vital governmental functions. Such orders ~~((shall))~~ include, but are not limited to, protective orders issued during the proceeding or pursuant to WAC 246-10-405.

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-704 Reconsideration of final orders. (1) Within ten days of service of a final order, either party may file a petition for reconsideration, stating the specific grounds upon which reconsideration is requested and the relief requested.

(2) Grounds for reconsideration ~~((shall be))~~ are limited to:

(a) Specific errors of fact or law; or
(b) Implementation of the final order would require department activities inconsistent with current department practice; or

(c) Specific circumstances render the person requesting reconsideration unable to comply with the terms of the order.

(3) Petitions for reconsideration must be served upon the opposing party and filed with the adjudicative ~~((clerk))~~ clerk's office within ten days of service of the final order.

(4) If reconsideration is requested based on an error of fact, the request for reconsideration ~~((shall))~~ must contain specific reference to the record. If reconsideration is requested based on testimony of record, the request for reconsideration ~~((shall))~~ must contain specific reference to the testimony. The presiding officer or review officer may require that the party requesting reconsideration submit a copy of the transcript of the adjudicative proceeding and provide specific reference to the transcript.

(5) The petition for reconsideration is denied if, within twenty days of the date the petition is filed, the presiding officer or review officer:

(a) Denies the petition;
(b) Does not act upon the petition; or
(c) Does not serve the parties with notice of the date by which ~~((he/she))~~ he or she will act on the petition.

(6) If the presiding officer or review officer determines to act upon the petition, the opposing party ~~((shall))~~ must be provided at least ten days in which to file a response to the petition.

(7) Disposition of petitions for reconsideration ~~((shall))~~ must be in the form of a written order denying the petition, granting the petition, and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-705 Agency record of adjudicative proceedings. (1) The department shall maintain an official record of each adjudicative proceeding.

(2) The record shall include:
(a) Notices of all proceedings;
(b) Any prehearing order;

(c) Any motions, pleadings, briefs, petitions, and requests filed, and rulings thereon;

(d) Evidence received or considered;

(e) A statement of matters officially noted;

(f) Offers of proof and objections and rulings thereon;

(g) Any proposed findings, requested orders, and exceptions;

(h) Any recording of the adjudicative proceeding and any transcript of all or part of the adjudicative proceeding considered before final disposition of the matter;

(i) Any final order, initial order, or order on reconsideration; and

(j) Matters placed on the record following an ex parte communication, if any.

(3) The record ~~((shall be))~~ is subject to disclosure as provided by chapter ~~((42-17))~~ 42.56 RCW, the Public Records Act, and by WAC 246-10-114, except as limited by protective orders and provisions contained in the final order.

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-707 Vacating an order for reason of default or withdrawal. (1) A party may petition to vacate a default order entered against that party for failing to attend an adjudicative proceeding requested by that party ~~((by))~~ for good cause. The requesting party shall:

(a) ~~((Specifying))~~ Specify the grounds relied upon in the petition; and

(b) ~~((Filing))~~ File the petition at the adjudicative ~~((clerk))~~ clerk's office and with the opposing party within seven days of service of the default order.

(2) The presiding officer shall consider the petition and shall:

(a) Grant the motion to vacate and reinstate the application for adjudicative proceeding, and may impose conditions on licensure pending final adjudication; or

(b) Deny the motion to vacate the default order.

NEW SECTION

WAC 246-10-708 Failure to comply with a disciplinary order. (1) If the disciplining authority alleges failure to comply with a disciplinary order, the department may file a motion for hearing with the adjudicative clerk's office and serve a copy on the respondent.

(2) Upon receipt of the motion, the adjudicative clerk's office shall issue a notice of hearing on motion notifying the parties of the time, place and date of the administrative hearing.

(3) The sole issue at the hearing shall be whether the respondent failed to comply with a disciplinary order.

(4) At the hearing, the department has the burden of proving it is more probable than not that the respondent failed to comply with a disciplinary order.

(5) The presiding officer will issue an order including findings of fact and conclusion of law.

(6) If the department has proven failure to comply with a disciplinary order, the sanction will be indefinite suspension until compliance is achieved as determined by the disciplining authority.

WSR 18-18-050
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed August 29, 2018, 4:03 p.m., effective September 29, 2018]

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

Purpose: Chapter 246-11 WAC, model procedural rules for adjudicative proceedings conducted under the authority of a board or commission having disciplinary authority under the Uniform Disciplinary Act, chapter 18.130 RCW. The rules in chapter 246-11 WAC are intended to compliment the adjudicative proceedings standards governed by RCW 34.05.413 through 34.05.476. Chapter 246-11 WAC applies to almost all proceedings before health professions regulated by a board or commission having disciplinary authority under the Uniform Disciplinary Act. Proceedings involving health professions regulated by the secretary of health are found in chapter 246-10 WAC and will be amended under a separate rule making.

The adopted rule updates chapter 246-11 WAC and makes needed clarifications, streamlining and modernization changes. The department of health (department) adopted this rule chapter in the early 1990s. A comprehensive review of the entire chapter showed that the existing rules did not reflect current business practices. In general the proposed rule amendments:

- Accurately reflect internal department operations;
- Adopt, incorporate, clarify, or comply with federal or other state regulations;
- Make address and name changes;
- Make clarifications and add necessary definitions;
- Eliminate conflicts in the rules;
- Preserve confidentiality of health care records; and
- Update the categories for brief adjudicative proceedings.

Citation of Rules Affected by this Order: New WAC 246-11-700; and amending WAC 246-11-001, 246-11-010, 246-11-020, 246-11-030, 246-11-040, 246-11-050, 246-11-070, 246-11-080, 246-11-090, 246-11-120, 246-11-130, 246-11-140, 246-11-170, 246-11-180, 246-11-190, 246-11-200, 246-11-210, 246-11-220, 246-11-250, 246-11-260, 246-11-270, 246-11-280, 246-11-290, 246-11-300, 246-11-310, 246-11-320, 246-11-340, 246-11-360, 246-11-370, 246-11-380, 246-11-390, 246-11-400, 246-11-420, 246-11-425, 246-11-430, 246-11-440, 246-11-450, 246-11-470, 246-11-480, 246-11-490, 246-11-510, 246-11-520, 246-11-530, 246-11-540, 246-11-550, 246-11-560, 246-11-580, 246-11-590, 246-11-600, and 246-11-610.

Statutory Authority for Adoption: RCW 43.70.040, 34.05.220, 34.05.410, and 18.130.050.

Other Authority: RCW 34.05.413 through 34.05.476.

Adopted under notice filed as WSR 18-06-047 on March 2, 2018.

Changes Other than Editing from Proposed to Adopted Version: The following clarifying and nonsubstantive changes were made to the proposed rules upon adoption:

WAC 246-11-030 Appearance of parties, in subsection (3) the original language was restored. In the proposed rule the respondent's right to appear by phone was withdrawn and replaced by leaving whether a telephone appearance is acceptable up to the discretion of the hearing officer, with a

requirement that the respondent show "good cause." In the proposed rule there was no definition of what constitutes "good cause" in this situation, and different hearing officers could have different interpretations and it was perceived that the removal of the telephone appearance option could be hard on licensees who practice far from the hearing venue. This was not the intent and therefore the original language was restored.

WAC 246-11-080 Filing and service of documents, subsection (2)(b)(i) was revised from "personal service" to "hand delivery to the adjudicative clerk's office." This revision is consistent with other portions of the rule.

WAC 246-11-140 Expenses and witness fees, subsection (1)(a) and (b) have been removed because the department doesn't have the authority to set the fees and expenses the respondent pays witnesses and experts.

WAC 246-11-220 Subpoenas, subsection (6)(b) was revised because of concern that the proposed requirement was not sufficient protection to provide or ensure notice to the actual witness or compel their attendance at a hearing. Subsection (6)(b) was amended to say "leaving a copy at such person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein." This language is similar to other statutory language.

WAC 246-11-260 Amendment of initiating documents, subsection (2)(b) was amended to delete the phrase "or part of the matter." Reconvening the same individuals for the rest of the hearing can be difficult to do in a timely manner.

WAC 246-11-270 Request for adjudicative proceeding, the citation in subsection (1)(c) was reinstated to the original citation. WAC 246-11-130(3) is now properly cited as WAC 246-10-104(4). The correction was necessary to reflect changes made to WAC 246-11-030.

WAC 246-11-300 Conduct of emergency adjudicative proceedings, the proposed rule was amended upon adoption to reflect the ability to take emergency action for both prompt hearings under the Administrative Procedure Act (chapter 34.05 RCW) and for show cause hearings under the Uniform Disciplinary Act (chapter 18.130 RCW). Subsection (1) was amended to reflect hearings under chapter 18.130 RCW, and a new subsection (2) was adopted to reflect hearings under chapter 34.05 RCW.

WAC 246-11-320 Form and content of summary actions, subsections (2) and (3) were amended to reflect emergency action for both prompt hearings under the Administrative Procedure Act (chapter 34.05 RCW) and for show cause hearings under the Uniform Disciplinary Act (chapter 18.130 RCW).

WAC 246-11-340 Opportunity for show cause hearing, at adoption, language in subsection (5) of the proposed rule was repealed because the rule already establishes fair time frames for everyone. The language in subsection (5) that was repealed stated "The presiding officer may adjust the timelines in subsection (3) or (4) of this section in the interest of fairness, as long as the hearing is held within fourteen days of the license holder's request for a show cause hearing." Subsection (9) was amended to clarify that a hearing will be provided on a statement of charges within forty-five days.

WAC 246-11-360 Settlement conference, subsection (3) was amended to clarify that representatives of the board will

attend, and representatives of the department may attend. Subsection (5) was amended to clarify that when a settlement offer has been signed and returned by the respondent all subsequent dates set in the scheduling order are stayed or stricken pending final review of the settlement by the presiding officer. The term "stricken" was inadvertently left out.

WAC 246-11-380 Motions, subsections (6), (7) and (8) were amended to include page limits. This amendment reflects consistency with the same restrictions that most courts have.

WAC 246-11-400 Protective orders, subsection (3) was amended to include clarification that the clerk's office will not accept documents that are not redacted consistent with a protective order.

WAC 246-11-490 Evidence, subsection (2) was amended to replace "are" with "is" and replaced "grounds" with "a basis."

WAC 246-11-600 Judicial review, subsection (1) was amended to add "shall" before "comply."

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 50, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 50, Repealed 0.

Date Adopted: August 28, 2018.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 93-08-003, filed 3/24/93, effective 4/24/93)

WAC 246-11-001 Purpose and application of chapter. (1) This chapter contains model rules for adjudicative proceedings authorized to be conducted under the authority of a board having disciplining authority under the Uniform Disciplinary Act, chapter 18.130 RCW. Each board may adopt these rules as contained in this chapter or as modified.

(2) This chapter, as modified and adopted by the board, ~~((shall apply))~~ applies to adjudicative proceedings authorized to be conducted under the authority of the board.

(3) ~~((This chapter applies to adjudicative proceedings begun on or after the effective date of this chapter in programs administered by the board. For purposes of this section, "begun" shall mean the receipt by the appropriate office of an application for an adjudicative proceeding. These rules shall be))~~ The rules in this chapter are the exclusive rules governing adjudicative proceedings under the jurisdiction of the board.

(4) To the extent that these rules differ by inclusion, deletion, or content from the model rules adopted by the chief administrative law judge pursuant to RCW 34.05.250, this chapter shall prevail in order to provide a process consistent with the organization of the department and the board.

(5) Where a provision of this chapter conflicts with another chapter of Title 246 WAC, the provision of this chapter shall prevail.

(6) Where a provision of this chapter conflicts with a provision of the Revised Code of Washington, the statute shall prevail.

AMENDATORY SECTION (Amending WSR 09-03-089, filed 1/20/09, effective 2/20/09)

WAC 246-11-010 Definitions. ~~((As used in these rules of practice and procedure, the following terms shall have the meaning set forth))~~ The definitions in this section apply throughout this chapter unless the context clearly ((indicates)) requires otherwise. ~~((Other terms shall have their ordinary meaning unless defined elsewhere in this chapter)).~~

(1) "Adjudicative ~~((clerk))~~ clerk's office" ~~((shall))~~ means the unit with responsibility for: Docketing; service of orders; and maintaining custody of the adjudicative proceeding record, whose address is:

Department of Health
Adjudicative ~~((Clerk))~~ Clerk's Office
~~((310 Israel Rd. S.E.))~~
P.O. Box 47879
Olympia, WA 98504-7879

(2) "Adjudicative proceeding" or "hearing" ~~((shall))~~ means a proceeding required by statute or constitutional right and conducted under the rules of this chapter, which provides an opportunity to be heard by the board prior to the entry of a final order under this chapter.

(3) "Board" ~~((shall))~~ means a board or commission disciplining authority under RCW 18.130.040 (2)(b) ~~((and (3)))~~.

(4) "Brief adjudicative proceeding" ~~((shall))~~ means an adjudicative proceeding or hearing, the scope or conduct of which is limited as provided in this chapter.

(5) "Department" ~~((shall))~~ means the Washington state department of health and, where appropriate, the secretary of the Washington state department of health or the secretary's designee.

(6) "Docket" or "docketing" ~~((shall))~~ means the list or calendar of causes set to be heard at a specified time, prepared by the adjudicative ~~((clerk))~~ clerk's office for the use of the department.

(7) "Filing" ~~((shall))~~ means receipt by the adjudicative ~~((clerk))~~ clerk's office.

(8) "Initiating document" ~~((shall))~~ means a written agency document which initiates action ~~((against a license holder or applicant for license))~~ and which creates the right to an adjudicative proceeding. ~~((It may be entitled))~~ Initiating documents may be a statement of charges, notice of intent to deny, or ~~((by))~~ any other ~~((designation))~~ document indicating the action or proposed action to be taken.

(9) "License" ~~((shall have the meaning set forth))~~ has the same meaning as defined in RCW 34.05.010 and includes

license to practice the profession for which the board is the disciplining authority and any approval of school or curriculum required by law or rule to be obtained from the board.

(10) "Presiding officer" (~~shall~~) means the person who is assigned to conduct an adjudicative proceeding and who may either be a member of the board, an individual appointed pursuant to RCW 18.130.095(3), or an administrative law judge employed by the office of administrative hearings.

(11) "Presiding officer for brief adjudicative proceedings" (~~shall~~) means an employee of the department authorized by the board to conduct brief adjudicative proceedings.

(12) "Program" (~~shall~~) means the administrative unit within the department responsible for implementation of that chapter of Title 18 RCW establishing the board or its powers and responsibilities.

(13) "Protective order" (~~shall~~) means an order issued under this chapter which limits the use of, access to, or disclosure of information or evidence.

(14) "Respondent" (~~shall~~) means a license holder or applicant for license under the jurisdiction of the board who is named in an initiating document.

(15) "Secretary" (~~shall~~) means the secretary of the department of health or (~~his/her~~) his or her designee.

(16) "Show cause hearing" means a hearing authorized under RCW 18.130.135 and WAC 246-11-340 for the limited purpose of determining whether a summary action taken by the disciplining authority shall remain in effect pending a full administrative hearing.

(17) "Summary action" (~~shall~~) means an agency action to address an immediate (~~danger~~) threat to the public health, safety, or welfare and (~~shall~~) includes, but is not (~~be~~) limited to, an order of summary suspension, and an order of summary restriction of a license.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-020 Signature authority. (1) A person designated by the board shall sign all initiating documents issued under this chapter.

(2) All final orders shall be signed by a member of the panel of board members who heard the matter.

(3) All other orders shall be signed by the presiding officer conducting the proceeding.

(4) Authority to sign (~~shall be~~) is indicated by designation of the title of the person signing and shall not require any other affirmation, affidavit, or allegation.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-030 Appearance of parties. If a respondent requests an adjudicative proceeding to contest the action, that party shall appear at all stages of the proceeding except as otherwise provided in this section.

(1) If the respondent is represented as provided in this chapter, the respondent shall appear personally at the hearing and at any scheduled settlement conference but need not appear at the prehearing conference or at presentation of motions.

(2) Parties may be represented by counsel at all proceedings.

(3) The respondent may appear by telephone at any portion of the proceedings conducted by telephone, in the discretion of the presiding officer following reasonable advance notice to the presiding officer and to the opposing party.

(4) The requirement of personal appearance may be waived for good cause (~~is~~) at the discretion of the presiding officer.

(5) Failure to appear as provided in this chapter (~~shall be~~) is grounds for taking (~~final~~) action by default.

AMENDATORY SECTION (Amending WSR 93-08-003, filed 3/24/93, effective 4/24/93)

WAC 246-11-040 Computation of time. (1) When computing a period of time prescribed or allowed by an applicable statute or rule, the day of the act, event, or default from which the designated period of time begins to run (~~shall not be~~) is not included.

(2) The last day of the computed period (~~shall be~~) is included unless the last day is a Saturday, Sunday, or legal holiday.

(3) When the last day is a Saturday, Sunday, or legal holiday, the period (~~shall run until the end of~~) ends at 5:00 p.m. on the next day which is not a Saturday, Sunday, or legal holiday.

(4) When the period of time prescribed or allowed is seven days or less, any intermediate Saturday, Sunday, and legal holiday (~~shall be~~) is excluded from the computation.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-050 (~~Notarization~~) Certification(s) and authentication. (1) A person's (~~sworn~~) written statement, declaration, verification, certificate, or oath (~~or affidavit~~) may be authenticated by (~~an unsworn~~) a written statement which is executed in substantially the following form:

I certify (or declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

(Date and Place)

(Signature)

(2) Documents or records may be authenticated by a certification, as provided in subsection (1) of this section, from the custodian of the records or other qualified person that the documents or records are what they purport to be.

(3) Signature of any attorney (~~shall~~) must be accompanied by and authenticated by that attorney's Washington State Bar Association number.

(4) Documents prepared and submitted by a party who is not represented by an attorney (~~shall~~) must be signed and dated by that party and (~~shall~~) must include that party's current address.

(5) Signature by a party or an attorney on a document shall constitute a certificate by the party or attorney that

(~~he/she~~) he or she has read the document, believes there are grounds to support it, and has not submitted the document for the purpose of delay, harassment, or needless increase in the cost of a proceeding.

(6) Compliance with certification requirements of subsections (1) and (2) of this section creates a rebuttable presumption that a document is authentic.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-070 Representation. (1) License holders, applicants for license, and recipients of benefits may be represented subject to the following conditions:

(a) A license holder or applicant for license may represent (~~(himself/herself)~~) himself or herself or may be represented by an attorney who has complied with the admission to practice rules of the supreme court of the state of Washington(~~(s)~~).

(b) Every attorney representing a license holder or applicant for license shall file a notice of appearance with the adjudicative (~~(clerk)~~) clerk's office upon commencing representation, and shall file a notice of withdrawal of counsel with the adjudicative (~~(clerk)~~) clerk's office upon terminating representation.

(c) No license holder or applicant may be represented in an adjudicative proceeding by an employee of the department.

(2) No current or former employee of the department may appear as an expert, character witness, or representative of any party other than the (~~(state of Washington if he/she)~~) department if the employee took an active part in investigating or evaluating the case or represented the agency in the matter, unless written permission of the secretary is granted.

(3) No current or former (~~(member)~~) employee of the attorney general's office (~~(staff)~~) who participated personally and substantially in investigating or evaluating the matter at issue while so employed may represent a party other than the department or otherwise participate in a related proceeding without first having obtained the written consent of the attorney general's office.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-080 Filing and service ((and filing)) of documents. (~~((1) A party filing a pleading, brief, or paper other than an initiating document or application for an adjudicative proceeding as required or permitted by these rules, shall serve a copy of the paper upon the opposing party or any designated representative of the opposing party prior to or simultaneous with filing.~~)

(2) ~~Unless otherwise provided by law, filing and service shall be made by personal service; first class, registered, or certified mail.~~

(3) ~~Filing shall be complete upon actual receipt during normal business hours at the adjudicative clerk office, unless filing is directed in writing to be made to another address.~~

(4) ~~Service shall be complete when personal service is made; mail is properly stamped, addressed, and deposited in the United States mail.~~

(5) ~~Proof of service shall consist of filing as required by these rules, together with one of the following:~~

(a) ~~An acknowledgement of service;~~

(b) ~~A certificate of service including the date the papers were served, the parties upon whom served, the signature of the serving party, and a statement that service was completed by:~~

(i) ~~Personal service; or~~

(ii) ~~Mailing in the United States mail a copy properly addressed with postage and fees prepaid to each party and each designated representative.)~~ (1) For purposes of this section "document" means pleadings, briefs, exhibits, or other materials requested or relevant to an adjudicative proceeding.

(2) Filing. Filing is the act of delivering documents to the adjudicative clerk's office.

(a) A party must file with the adjudicative clerk's office documents required or allowed pursuant to this chapter.

(b) Unless otherwise provided by law, documents must be filed by:

(i) Hand delivery to the adjudicative clerk's office;

(ii) First class, registered, or certified mail; or

(iii) Fax transmission where copies are mailed simultaneously.

(c) The date of filing is the date the documents are received by the adjudicative clerk's office.

(d) Filing is effective when the documents are received by the adjudicative clerk's office during normal business hours. For documents received after 5:00 p.m. on a business day or on a Saturday, Sunday, or legal holiday, the filing is effective the next business day.

(3) Service. Service is the act of delivering a document to a party or a party's designated representative.

(a) Unless otherwise provided by law, documents must be served by:

(i) Personal service;

(ii) First class, registered, or certified mail; or

(iii) Fax transmission where copies are mailed simultaneously.

(b) A party must serve copies of documents required or allowed by this chapter prior to or simultaneously with filing the original document with the adjudicative clerk's office.

(c) Service is complete when the documents are:

(i) Personally served;

(ii) Properly stamped, addressed, and deposited in the United States mail; or

(iii) Successfully transmitted by fax and properly stamped and addressed copies are deposited in the United States mail.

(d) A party may prove service by filing in compliance with this chapter any of the following:

(i) An acknowledgment of service; or

(ii) A certificate of service including the date the documents were served, the parties upon whom served, the signature of the serving party, and a statement specifying which type of service was used.

(e) Service on a licensee, applicant, or a person requesting an adjudicative proceeding will be made at the last known address provided to the department in accordance with WAC 246-12-310, unless the program has actual knowledge of a different correct address for the person being served.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-090 Jurisdiction. (1) The board has jurisdiction over all licenses issued by the board and over all holders of and applicants for licenses as provided in RCW 18.130.040 (2)(b) and (3). Such jurisdiction is retained even if an applicant abandons or requests to withdraw the application, or a licensee (~~surrenders or~~) fails to renew a license.

(2) The department has jurisdiction over practice by unlicensed (~~practice~~) persons of any activity, profession or business for which a license is required unless otherwise prohibited by law.

AMENDATORY SECTION (Amending WSR 93-08-003, filed 3/24/93, effective 4/24/93)

WAC 246-11-120 Good faith requirement. Good faith (~~shall be~~) is the standard for compliance with these rules. Failure to make a good faith effort to comply with these rules (~~shall be~~) is grounds for sanctions as provided in this chapter.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-130 Public records. (1) All papers, exhibits, transcripts, and other materials required by or submitted in accordance with this chapter (~~shall be considered~~) are public records.

(2) Release of information (~~on~~) upon a request for public records (~~shall be~~) is subject to the following limitations:

(a) Release of health care information (~~shall~~) must comply with chapter 70.02 RCW and any applicable statutes or rules (~~promulgated thereunder~~); and

(b) (~~Protective orders issued pursuant to WAC 246-11-400 shall prevail; and~~

(c) ~~Chapter 42.17 RCW shall~~) Chapter 42.56 RCW governs the release of records.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-140 Expenses and witness fees. (1) The party requesting the appearance of a witness under a subpoena shall pay witness fees and expenses (~~shall be paid at the following rates to witnesses appearing under subpoena by the party requesting the appearance:~~

(a) ~~Fees shall be paid at the daily rate established for jurors in district court of Thurston County; and~~

(b) ~~Expenses shall be paid at the rate established for employees of the state of Washington, or as otherwise required by law).~~

(2) The party requesting service of an expert witness shall negotiate and pay fees for (~~an~~) the expert witness (~~shall be negotiated by and paid by the party requesting services of the expert~~).

(3) (~~At~~) The party incurring expenses (~~incurred~~) in connection with proceedings under this chapter shall (~~be paid by the party incurring~~) pay the expense.

(4) The program shall pay expenses associated with:

(a) The facility in which proceedings are conducted; and

(b) Recording of the proceedings.

(5) (~~Expenses related to preparation and distribution of the transcript of proceedings shall be paid by~~) The party filing a motion or request for review of an initial order or petition for reconsideration, appealing a final order, or otherwise requesting (~~the~~) a transcript of a proceeding shall pay all expenses related to preparation and distribution of the transcript.

AMENDATORY SECTION (Amending WSR 93-08-003, filed 3/24/93, effective 4/24/93)

WAC 246-11-170 Sanctions. (1) Orders may include sanctions against either party.

(2) Grounds for sanctions may include:

(a) Failure to comply with (~~these rules~~) this chapter or orders of the presiding officer; and

(b) Willful interference with the progress of proceedings.

(3) Sanctions may include:

(a) Dismissal of the matter;

(b) Proceeding in default; and

(c) Other sanctions as appropriate.

(4) The order (~~shall~~) must state the grounds upon which any sanctions are imposed.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-180 Intervention. (1) The presiding officer may grant a petition for intervention pursuant to RCW 34.05.443.

(2) A request to intervene (~~shall~~) will be handled as a prehearing motion and (~~shall~~) will be subject to the dates contained in the scheduling order. (~~Within the sound exercise of discretion,~~) The presiding officer may allow intervention if:

(a) The intervenor is not a party to the matter but has a substantial interest in the outcome of the matter and the interest of the intervenor is not adequately represented by a party, or other good cause exists; and

(b) Any representative of the intervenor meets the requirements of WAC 246-11-070.

(3) A person (~~shall~~) will not be allowed to intervene if that person had notice of the board's decision and, upon timely application, would have been able to appear as a party in the matter in which intervention is sought, but failed to make such timely application.

(4) If intervention is granted, the intervenor shall (~~be subject to these rules~~) comply with this chapter on the same basis as the other parties to the proceeding, unless otherwise limited in the order granting intervention.

AMENDATORY SECTION (Amending WSR 93-08-003, filed 3/24/93, effective 4/24/93)

WAC 246-11-190 Form of pleadings and orders. (1) Pleadings, orders, and other papers filed, served, or entered under this chapter (~~shall be~~) must:

(a) ~~((Captioned))~~ Have a caption with the name of the state of Washington, the name of the board, and the title and cause number, if any, of the proceeding; and

(b) Be signed by the person filing, serving, or entering the document. When that person is an attorney representing a party, the signature block ~~((shall))~~ must include the attorney's Washington State Bar Association number.

(2) All orders ~~((shall))~~ must comply with RCW 34.05.461 and the requirements of this chapter.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-200 Notice to ~~((limited-English-speaking))~~ limited-English proficient parties. (1) "Limited-English proficiency" means, for purposes of this section and WAC 246-11-210, that a person is unable to communicate effectively in English because their primary language is not English and they have not developed fluency in the English language. A person with limited-English proficiency may have difficulty speaking or reading English.

(2) The department shall ensure that when it serves an initiating document, it includes a notice that the respondent has the right to request an interpreter for the hearing if one is needed. The notice will be in the top ten primary languages in Washington state as determined pursuant to subsection (4) of this section.

(3) When ~~((the program or))~~ the adjudicative ~~((clerk))~~ clerk's office is notified ~~((or otherwise made aware that a limited-English-speaking person is a party in an adjudicative proceeding))~~ by a party that he or she has limited-English proficiency, is a party to an adjudicative proceeding, and their non-English language is one of the top ten primary languages in Washington state as determined pursuant to subsection (4) of this section, the department shall ensure that notices concerning a hearing, including notices of hearing, continuance, and dismissal are translated into the person's primary language.

(4) The top ten primary languages will be reevaluated each year to respond to demographic changes using:

(a) U.S. Census data;

(b) Office of financial management limited-English proficiency population forecasts; and

(c) Department tracking of frequency of encounters with limited-English proficient persons.

(5) When the adjudicative clerk's office is notified by a party that he or she has limited-English proficiency, is a party to an adjudicative proceeding, and their non-English language is not a primary language addressed in subsection (4) of this section, the department shall make a reasonable effort to ensure that either all notices concerning the hearing, including notices of hearing, continuance, and dismissal, ~~((shall either be in the))~~ are in the person's primary language ~~((of the party or shall))~~ or include a notice in the party's primary language ~~((of the party))~~ which describes the significance of the notice and how the party may receive assistance in understanding and, if necessary, responding to the notice.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-210 Interpreters for hearing or speech impaired persons and persons with limited-English proficiency. (1) A "hearing or speech impaired person" means a person who, because of a hearing or speech impairment ~~((or speech defect))~~ cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) ~~((A "limited-English-speaking person" means a person who because of a non-English-speaking cultural background cannot readily speak or understand the English language.~~

~~((3))~~ (3) If a hearing or speech impaired person or ~~((a limited-English-speaking))~~ person with limited-English proficiency is involved in an adjudicative proceeding and ~~((a))~~ notifies the adjudicative clerk's office of the need for an interpreter ~~((is made known to the adjudicative clerk office))~~, the presiding officer shall appoint an interpreter who is acceptable to the parties or, if the parties are unable to agree on an interpreter, the presiding officer shall select and appoint an interpreter.

~~((4))~~ (3) Before beginning to interpret, an interpreter shall take an oath or make affirmation that:

(a) A true interpretation ~~((shall))~~ will be made to the ~~((impaired))~~ person using the interpreter of all the proceedings in a language or in a manner the ~~((impaired))~~ person understands; and

(b) The interpreter ~~((shall))~~ will repeat the statements of the ~~((impaired))~~ person using the interpreter to the presiding officer, in the English language, to the best of the interpreter's skill and judgment.

~~((5))~~ (4) When an interpreter is used in a proceeding:

(a) The interpreter shall ~~((translate))~~ interpret all statements made by other participants in the proceeding;

(b) The presiding officer shall ensure sufficient extra time is provided to permit ~~((translation))~~ interpretation; and

(c) The presiding officer shall ensure that the interpreter ~~((translates))~~ interprets the entire proceeding to the ~~((hearing impaired person or limited-English-speaking person to the extent))~~ person using the interpreter so that the person has the same opportunity to understand the statements made as ~~((would))~~ a person not requiring an interpreter.

~~((6))~~ (5) An interpreter appointed under this section ~~((shall be))~~ is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The program shall pay the interpreter fee and expenses incurred for interpreters for license holders, applicants, or recipients of benefits. The party on whose behalf a witness requiring an interpreter appears shall pay for interpreter services for that witness.

~~((7))~~ (6) All proceedings ~~((shall))~~ must be conducted consistent with chapters 2.42 and 2.43 RCW.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-220 Subpoenas. (1) The board, through the presiding officer, or other designated person, and attorneys for parties may issue subpoenas to residents of the state

of Washington, to license holders and applicants for license, and to other persons or entities subject to jurisdiction under RCW 4.28.185.

(2) The presiding officer shall issue subpoenas pursuant to RCW 34.05.446(1) for parties not represented by counsel upon request of the party and upon a showing of relevance and reasonable scope of the testimony or evidence sought. Requests for issuance of subpoenas must be made in writing to the presiding officer stating the relevance and the scope of testimony or evidence sought.

(3) The person on whose behalf the subpoena is issued shall pay any witness fees and expenses as provided in WAC 246-11-140 or costs for interpreters for such witnesses as provided in WAC 246-11-210.

(4) Attendance of persons subpoenaed and production of evidence may be required at any designated place in the state of Washington.

(5) Every subpoena ~~((shall))~~ must:

(a) Comply with WAC 246-11-190;

(b) Identify the party causing issuance of the subpoena; and

(c) ~~((State the title of the proceeding; and~~
~~(d)))~~ Command the person to whom the subpoena is directed to attend and give testimony ~~((and/or))~~ or produce designated items under the person's control at a specified time and place.

(6) A subpoena may be served by any suitable person eighteen years of age or older by:

(a) Giving a copy of the subpoena to the person to whom the subpoena is addressed;

(b) Leaving a copy at ~~((the residence of the person to whom the subpoena is addressed))~~ such person's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein;

(c) Sending a copy of the subpoena by mail to the current address on file with the program if the person is licensed by the board or has filed an application for a license with the board; or

(d) Sending a copy of the subpoena by certified mail with proof of receipt if the person is neither licensed by nor has applied for a license with the board.

(7) Proof of service may be made by:

(a) Affidavit or declaration of personal service;

(b) Certification by the person mailing the subpoena to a license holder or applicant; or

(c) Return or acknowledgment showing receipt by the person subpoenaed or ~~((his/her))~~ his or her representative. Any person accepting certified or registered mail at the last known address of the person subpoenaed ~~((shall))~~ will be considered an authorized representative.

(8) The presiding officer, upon motion made promptly and before the time specified for compliance in the subpoena, may:

(a) Quash or modify the subpoena if the subpoena is unreasonable or requires evidence not relevant to any matter at issue; or

(b) Condition denial of the motion upon just and reasonable conditions, including advancement of the reasonable cost by the person on whose behalf the subpoena is issued of producing the books, documents, or tangible things; or

(c) Issue a protective order under RCW 34.05.446 or WAC 246-11-400.

(9) The board may seek enforcement of a subpoena under RCW 34.05.588(1) or proceed in default pursuant to WAC 246-11-280.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-250 Form and content of initiating documents. (1) Initiating documents shall include a clear and concise statement of the:

(a) Identity and authority of the person issuing the document;

(b) Factual basis for the action or proposed action set forth in the document;

(c) Statutes and rules alleged to be at issue;

(d) Identity of the party against whom the action is taken or proposed to be taken;

(e) Action or proposed action or penalties, including the statutory or rule authority for those actions or penalties;

(f) Signature of the person issuing the document and the date signed; and

(g) Method by which an adjudicative proceeding may be requested.

(2) Initiating documents ~~((shall))~~ must be accompanied by the following documents:

(a) Notice that the respondent may defend against the action or proposed action; and

(b) Form for requesting adjudicative proceeding.

(3) Initiating documents ~~((shall))~~ must be served as described in WAC 246-11-080.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-260 Amendment of initiating documents. (1) Prior to the hearing date, initiating documents may be amended ~~((subject to the following conditions))~~:

(a) Subject to the following conditions:

(i) Amended initiating documents ~~((shall))~~ must meet the requirements of WAC 246-11-250(1)(~~;~~);

~~((b))~~ (ii) Amended initiating documents ~~((shall))~~ must be accompanied by the documents described in WAC 246-11-250(2)(~~;~~);

~~((c))~~ (e) ~~Whenever amended initiating documents are issued, a new interval for response will begin, as described in WAC 246-11-270, unless the respondent requests the time periods set by the original initiating document; and~~

~~((d))~~ (d) ~~Issuance of amended initiating documents ends all obligations of the parties under the prior initiating documents.~~

(2) ~~On the hearing date, the initiating documents may be amended subject to the following conditions:~~

~~((a))~~ (a) ~~The documents may be amended upon motion of the state;~~

~~((b))~~ (b) ~~The documents may not be amended without the approval of the presiding officer; and~~

~~((c))~~ (c) ~~Upon motion of a party or upon his/her own initiative, the presiding officer may grant a continuance on all or part of the matter if necessary to afford the respondent an~~

opportunity to prepare a defense to the amended documents).

(b) Whenever amended initiating documents are served, a new interval for response will begin, as described in WAC 246-11-270. Whenever amended initiating documents are served, the respondent shall file an answer within the time period specified in the amended initiating document, unless otherwise permitted to extend the filing period under WAC 246-11-270(3), or if the case is within thirty days of the scheduled hearing as described in subsection (c) of this section.

(c) If amended initiating documents are filed within thirty days of the scheduled hearing, the presiding officer will convene a status conference to discuss response deadlines and the case schedule. Upon motion of a party and a showing of good cause, or upon his or her own initiative, the presiding officer may grant a continuance on all or part of the matter and may modify the scheduling order as necessary.

(2) On the hearing date, the initiating documents may be amended subject to the following conditions:

(a) The documents may be amended upon motion of the state.

(b) The presiding officer will determine whether amendments are substantive and may grant a continuance on all if necessary to afford the respondent an opportunity to prepare a defense to the amended documents.

(3) For purposes of this section, motions may be made orally.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-270 Request for adjudicative proceeding. A respondent may respond to an initiating document by filing an application for an adjudicative proceeding or by waiving the opportunity for adjudicative proceeding.

(1) If the respondent wishes to file an application for an adjudicative proceeding:

(a) An application for adjudicative proceeding must be filed in accordance with the following time periods:

(i) For matters under chapter 18.130 RCW, the Uniform Disciplinary Act, within twenty days of service of the initiating documents unless ~~((and))~~ an extension has been granted as provided in subsection (3) of this section; and

(ii) For all other matters, within twenty days of service of the initiating documents, unless otherwise provided by statute.

(b) The application for adjudicative proceeding ~~((shall))~~ must be made on the Request for Adjudicative Proceeding form accompanying the initiating documents or by a written document including substantially the same information.

(c) By filing a request for adjudicative proceeding, the responding party agrees to appear personally at the adjudicative proceeding or, if otherwise approved in advance by the presiding officer, by telephone, unless appearance is waived by the presiding officer as authorized in WAC ~~((246-11-130(4)))~~ 246-11-030(4).

(d) The application for adjudicative proceeding ~~((shall))~~ must contain a response to the initiating documents, indicating whether each charge is admitted, denied or not contested,

and responses ~~((shall))~~ will be subject to the following conditions:

(i) Once admitted or not contested, an allegation may not be denied; and

(ii) An allegation denied or not contested may later be admitted.

(e) When an allegation is admitted or not contested, it ~~((shall))~~ will be conclusively deemed to be true for all further proceedings. No proof of the allegation need be submitted.

(f) The application for adjudicative proceeding ~~((shall))~~ must specify the representative, if any, designated pursuant to WAC 246-11-070 and any request for interpreter. The responding party shall amend the name of the representative and need for interpreter immediately if circumstances change prior to the hearing.

(g) The application for adjudicative proceeding ~~((shall))~~ must be filed at the adjudicative ~~((clerk))~~ clerk's office.

(2) A respondent may waive an adjudicative proceeding and submit a written statement and other documents in defense or in mitigation of the charges. Such waiver and documents shall be filed:

(a) In accordance with the timelines in subsection (1)(a) of this section; and

(b) ~~((At the address indicated))~~ As required in subsection (1)(g) of this section.

(3) For matters under RCW 18.130.180, if the twenty-day limit for filing an application for adjudicative proceeding results in a hardship to the respondent, the respondent may request an extension of not more than sixty days upon a showing of good cause.

(a) The request for extension ~~((shall))~~ must be filed within the twenty-day limit and ~~((shall))~~ include:

(i) The reason for the request and the number of days for which the extension is requested; and

(ii) Documentation of the circumstances creating the hardship.

(b) The request ~~((shall))~~ may be granted for a period not to exceed sixty days upon showing of:

(i) Illness of the respondent; or

(ii) Absence of the respondent from the county of residence or employment; or

(iii) Emergency in the respondent's family; or

(iv) Other good cause as determined by the presiding officer.

(c) If a request for extension is denied, the respondent shall have ten days from service of the order denying the extension or twenty days from service of the initiating documents, whichever is longer, to file an application for adjudicative proceeding.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-280 Default. (1) If a party fails to respond to initiating documents according to WAC 246-11-270, that party will be deemed to have waived the right to a hearing, and the board shall enter a final order without further contact with that party.

(2) If a party requests an adjudicative proceeding but fails to appear, without leave to do so, at a scheduled prehear-

ing conference, the presiding officer may issue an order of default. The order ~~((shall))~~ must include notice of opportunity to request that the default order be vacated pursuant to RCW 34.05.440(3). Unless vacated, a default order under this subsection ~~((shall))~~ will be grounds for the board to proceed to decide the matter in the absence of the respondent and without additional notice to the respondent and to issue a final order.

(3) If a party requests an adjudicative proceeding but fails to appear at the hearing, the presiding officer may issue an order of default in the same manner as subsection (2) of this section, or may proceed to hear the matter in the absence of the party and issue a final order.

(4) Final orders entered under this section shall contain:

(a) Findings of fact and conclusions of law based upon prima facie proof of the allegations contained in the initiating documents;

(b) Proof of service of or a good faith attempt to serve initiating documents and appropriate notices;

(c) A finding that there is no reason to believe that the party in default is in active military service;

(d) The penalties or conditions imposed by the order; and

(e) Notice of the opportunity to request reconsideration of a final order pursuant to RCW 34.05.470.

(5) Final and default orders entered under this section ~~((shall))~~ will be served upon the parties in accordance with WAC 246-11-080.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-290 Scheduling orders. (1) Within thirty days after receipt of the application for adjudicative proceeding, the board or designee ~~((thereof,))~~ shall:

(a) Approve the application for full adjudicative procedure and issue and serve on the parties a scheduling order or ~~((other scheduling mechanism))~~ initial conference order establishing timelines for discovery, settlement, and scheduled hearings; or

(b) Approve the application for a brief adjudicative procedure and issue and serve a notice of the date by which any additional written materials are to be submitted for consideration; or

(c) Deny the application according to RCW 34.05.416.

(2) If a scheduling order is issued:

(a) The scheduling order ~~((shall))~~ must specify:

(i) The date, time, and place of ~~((a settlement conference,))~~ a prehearing conference~~((;))~~ and the hearing;

(ii) The deadlines for completion of discovery and submission of prehearing motions; and

(iii) The name, address, and telephone number of the assistant attorney general or other department representative who will represent the ~~((state))~~ department in the matter.

(b) The scheduling order may be modified by order of the presiding officer upon ~~((his/her))~~ his or her own initiative or upon motion of a party. Any request for change ~~((of the))~~ to the initial scheduling ~~((mechanism or))~~ order ~~((shall))~~ must be made by motion as provided in WAC 246-11-380.

(c) The presiding officer may waive establishing dates for the ~~((settlement conference,))~~ completion of discovery,

submission of prehearing motions, and the prehearing conference, if, in the discretion of the presiding officer, those proceedings are not necessary or appropriate in a particular matter or type of case. However, either party may request by motion to the presiding officer that any or all of the dates be set.

(d) Dates contained in the scheduling order may be changed by the adjudicative ~~((clerk))~~ clerk's office upon written request of either party made within fifteen days of issuance of the first scheduling order. All other changes must be made by motion pursuant to WAC 246-11-380.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-300 Conduct of emergency adjudicative proceedings. (1) Except as otherwise required by law summary action may be taken under chapter 18.130 RCW only after a review by the board of such evidence, including affidavits or declarations, if appropriate, to establish:

(a) The existence of an immediate ~~((danger))~~ threat to the public health, safety, or welfare;

(b) The board's ability to address the ~~((danger))~~ threat through a summary action~~((;))~~; and

(c) The summary action is necessary to address the ~~((danger))~~ threat.

(2) Except as otherwise required by law summary action may be taken under chapter 34.05 RCW only after a review by the board of such evidence, including affidavits or declarations, if appropriate, to establish:

(a) The existence of an immediate danger to the public health, safety, or welfare;

(b) The board's ability to address the danger through a summary action; and

(c) The summary action is necessary to address the danger.

(3) No notice to any person potentially affected by a summary action ~~((shall be))~~ is required prior to issuance of a summary action.

AMENDATORY SECTION (Amending WSR 93-08-003, filed 3/24/93, effective 4/24/93)

WAC 246-11-310 Effect of summary action. (1) Summary action takes effect upon entry of the order.

(2) No person ~~((shall))~~ will be required to comply with a summary action until service has been made or the person has knowledge of the order, whichever occurs first.

(3) A summary action ~~((shall))~~ must be served as promptly as practicable, in accordance with WAC 246-11-080.

(4) A summary action shall not be subject to the post hearing process provided in WAC 246-11-550 through 246-11-610, but a summary action may be appealed to superior court as provided by law.

AMENDATORY SECTION (Amending WSR 93-08-003, filed 3/24/93, effective 4/24/93)

WAC 246-11-320 Form and content of summary actions. (1) A summary action ~~((shall))~~ must be entered in

the form of an order containing findings of fact, conclusions of law, and the summary action imposed, as well as a statement of policy reasons for the decision.

(2) Except as otherwise required by law a summary action imposed by emergency adjudicative proceeding ~~((shall))~~ under chapter 18.130 RCW must be limited to those actions necessary to alleviate an immediate ~~((danger))~~ threat to the public health, safety, or welfare.

(3) Except as otherwise required by law a summary action imposed by emergency adjudicative proceeding under chapter 34.05 RCW must be limited to those actions necessary to alleviate an immediate danger to the public health, safety, or welfare.

(4) Initiating documents, and all other documents required by WAC 246-11-250 ~~((shall))~~ or 246-11-260 must accompany a summary action order when served.

AMENDATORY SECTION (Amending WSR 09-03-089, filed 1/20/09, effective 2/20/09)

WAC 246-11-340 Opportunity for show cause hearing.

(1) A license holder's request for a show cause hearing must be filed within twenty days of the service of the summary action. A license holder must also respond to the statement of charges by requesting a hearing or an extension of time as provided in RCW 18.130.090.

(2) The show cause hearing will be conducted by a panel of the board within fourteen days of the license holder filing the show cause hearing request.

(3) ~~((By noon on the fourth calendar day after filing the show cause hearing request))~~ Unless otherwise specified by the presiding officer, the license holder must file, and deliver a copy to the department's attorney, any documents or written testimony to be admitted into evidence at the show cause hearing by noon on the fourth business day after filing the show cause hearing request.

(4) ~~((By noon on the eighth calendar day after the date the show cause hearing request was filed, but no less than the close of business two business days before the show cause hearing))~~ Unless otherwise specified by the presiding officer, the department must file, and deliver a copy to the license holder's attorney or to the license holder if not represented by counsel, any rebuttal documents or written testimony to be admitted into evidence at the show cause hearing by noon on the seventh business day after the date the show cause hearing request was filed, but no less than the close of business two business days before the show cause hearing.

(5) In reviewing the order of summary action, the show cause hearing panel will consider the statement of charges, the motions and documents supporting the request for summary action, the license holder's answer to the statement of charges, ~~((any))~~ documentary evidence or written testimony presented by the license holder and department in rebuttal that is timely filed pursuant to subsections (3) and (4) of this section, and unless waived, the parties will be given an opportunity for oral argument.

(6) ~~((At the show cause hearing, the department has the burden of proving it is more probable than not that the license holder poses an immediate threat to the public health and safety.~~

~~((7))~~ In cases under RCW 18.130.050 (8)(a) and 18.130.370, the department has the burden of proving at the show cause hearing that the licensee is prohibited from practicing a health profession in another state, federal, or foreign jurisdiction and that the conduct is substantially equivalent to unprofessional conduct. A copy of the order, stipulation, or agreement from a competent authority in another state, federal, or foreign jurisdiction showing that a license is prohibited from practicing their health profession is prima facie evidence that the requirements of RCW 34.05.479 (1) and (2) have been met.

~~((7))~~ In cases under RCW 18.130.050 (8)(b), the department has the burden of proving at the show cause hearing that the licensee is prohibited from employment in the care of vulnerable adults based upon a department of social and health service's final finding of abuse or neglect of a minor or abuse or abandonment, neglect, or financial exploitation of a vulnerable adult.

(8) The show cause panel will issue an order and may overturn, uphold or amend the summary suspension or restriction.

~~((8))~~ (9) Within forty-five days of a determination by the panel of the board to sustain the summary suspension or place restrictions on the license, the license holder may request a full hearing on the statement of charges on the merits of the disciplining authority's decision to suspend or restrict the license. A full hearing must be provided within forty-five days of receipt of the request for a hearing, unless stipulated otherwise.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-360 Settlement conference. (1) Following a request for an adjudicative proceeding, a settlement conference ~~((shall be conducted if provided in the scheduling order))~~ may be held if settlement is not achieved through written documents. The parties shall arrange the date, time and place of the settlement conference. If another scheduling mechanism is issued, a settlement conference may be scheduled and held at the discretion of the board or other settlement processes may be ~~((utilized))~~ used at the discretion of the board.

(2) The purpose of the settlement conference or other settlement process ~~((shall be))~~ is to attempt to reach agreement on the issues and on a proposed order to be entered. Any agreement of the parties is subject to final approval by the board.

(3) The respondent shall attend the settlement conference as scheduled and may also be represented as provided in WAC 246-11-070. Representatives of the board ~~((and/or department))~~ will also attend. Representatives of the department may attend. Other persons may attend by agreement of the parties. Attendance may be in person or by phone.

(4) Either party may bring documents or other materials to the settlement conference for the purpose of settlement negotiations. No testimony will be taken. No documents or information submitted at the settlement conference will be admitted at the adjudicative proceeding unless stipulated by

the parties or otherwise admitted into evidence by the presiding officer.

(5) If a settlement offer has been made in writing to the respondent and it is signed and returned by the respondent to the board (~~(prior to the settlement conference)~~), all subsequent dates set in the scheduling order or other scheduling mechanism are (~~(continued)~~) stayed or stricken pending final review of the settlement by the board.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-370 Discovery. The parties (~~(are encouraged to)~~) should exchange information and documents related to the case prior to the adjudicative proceeding. Formal discovery is obtained as follows:

(1) Methods, scope and limits:

(a) Parties may obtain discovery by production of records or things; deposition upon oral examination; requests for admission; or, if ordered by the presiding officer, written interrogatories.

(b) Unless otherwise limited by order of the presiding officer in accord with these rules, the scope of discovery (~~(shall be)~~) are as follows:

(i) Parties may obtain discovery regarding any matter not privileged, which is relevant to the subject matter in the pending action. It is not grounds for objection that the information sought will be inadmissible at the adjudicative proceeding if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(ii) The frequency or extent of use of the discovery methods (~~(set forth)~~) established in these rules shall be limited by the presiding officer if the presiding officer determines that:

(A) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive; or

(B) The party seeking discovery has had an ample opportunity by discovery to obtain the information sought; or

(C) The discovery is unduly burdensome or expensive, taking into account the needs of the case, limitations of the parties' resources, and the importance of the issues at stake.

(iii) The presiding officer may limit discovery upon his or her own initiative after reasonable notice or pursuant to a motion submitted by a party.

(2) Production of records, documents, or things:

(a) Upon written request of a party the opposing party shall identify experts and other witnesses to be called at the hearing and shall provide other information necessary to enable the party to conduct depositions of the witnesses.

(b) Any party may serve on any other party a request, which must be signed by the party or designated representative:

(i) To produce and permit the party making the request or designee to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of discovery and which are in the possession, custody or control of the party upon whom the request is served; or

(ii) To permit entry onto designated land or other property which is in the possession or control of the party upon

whom the request is served for the purpose of inspection, measuring, surveying, photographing, testing or sampling the property or designated object or operation thereon which is within the scope of discovery.

(c) Any party who produces documents for inspection shall produce them as they are kept in the usual course of business or may, if the parties agree, organize and label them to correspond with the categories in the request.

(d) The party upon whom a request is made may, by motion to the presiding officer, move for an order denying the request to produce or modify the conditions of the request. Denial of the request of change in the conditions of the request shall be within the discretion of the presiding officer and shall be made by written order.

(3) Depositions may be taken subject to the following conditions:

(a) Within the United States or a territory or insular possession subject to the dominion of the United States, depositions (~~(shall)~~) must be taken before an officer authorized to administer oaths by the state of Washington or of the place where the examination is held. A presiding officer may, in his or her discretion or following motion of a party, preside at the deposition. Within a foreign country, depositions (~~(shall)~~) must be taken before a secretary of an embassy or legation, consul general, vice-consul or consular agent of the United States, or a person designated by the presiding officer or agreed upon by the parties by stipulation in writing filed with the presiding officer, if any, and otherwise with the disciplining authority. Except by stipulation, no deposition (~~(shall)~~) may be taken before any person who is a party or a privy of a party, or a privy of a representative of a party, or who is financially interested in the proceeding.

(b) A party desiring to take the deposition of a person upon oral examination shall give reasonable notice of not less than five days in writing to the person to be deposed and to the opposing party. The notice (~~(shall)~~) must state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a description sufficient to identify the person to be examined or the particular class or group to which the person to be examined belongs. On motion of a party upon whom the notice is served, the presiding officer may for good cause shown, lengthen or shorten the time.

(c) After notice is served for taking a deposition, or upon motion of the presiding officer, or upon motion reasonably made by any party or by the person to be examined, and upon notice and for good cause, the presiding officer may issue an order that the deposition (~~(shall)~~) may not be taken or that it be taken subject to specified restrictions, conditions, or limitations.

(d) Depositions (~~(shall)~~) must be recorded.

(i) The officer before whom the deposition is taken shall put the witness on oath or affirmation and shall personally or by someone acting under the officer's direction and in the officer's presence, record the testimony.

(ii) The officer or person acting under the officer's direction shall transcribe the testimony at the request of any party, provided that any expenses (~~(shall be)~~) are paid by the requesting party.

(iii) The transcribed testimony (~~(shall)~~) must be submitted to the person deposed for review and signature, unless review and signature are waived by that person. The officer shall append to the transcript any changes in form or substance that may be submitted by the parties.

(iv) Copies of the transcribed and, unless review and signature has been waived, signed testimony (~~(shall)~~) will be served upon the person deposed and upon the parties.

(e) If the parties so stipulate in writing or on the record, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken, may be used as any other deposition.

(4) Following motion of a party and opportunity for response by the opposing party, the presiding officer may order a party to respond to written interrogatories and may order that the interrogatories be subject to specified restriction, condition, or limitation.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-380 Motions. (1) The presiding officer shall rule on motions. The presiding officer may rule on motions without oral argument or may request or permit the parties to argue the motion in person or by telephone. Oral argument may be limited in time at the discretion of the presiding officer.

(2) All prehearing motions, including discovery and evidentiary motions, (~~(shall)~~) must be made in writing (~~(and)~~), filed (~~(prior to)~~), and served on all other parties by the dates set in the scheduling order. Filing (~~(shall be at)~~) must be made with the adjudicative (~~(clerk)~~) clerk's office, unless filing is directed in writing to be made at another address.

(3) Motions for continuance must be made in writing and filed prior to the dates set in the scheduling order. If the adjudicative proceeding is scheduled to take place fewer than twenty days from service of the scheduling order, motions for continuance must be made within ten days of service of the scheduling order, but in no event fewer than five days prior to the hearing. Continuances may be granted by the presiding officer for good cause.

(4) The presiding officer may grant a continuance when a motion for continuance is not submitted within the time limits contained in subsection (3) of this section for good cause.

(5) The following is the recommended format for motions:

(a) A succinct statement of the facts contended to be material;

(b) A concise statement of the issue, issues or law upon which the presiding officer is requested to rule;

(c) The specific relief requested by the moving party;

(d) If the motion requires the consideration of facts or evidence not appearing on the record, the moving party shall also serve and file copies of all affidavits, declarations, and photographic or documentary evidence presented in support of the motion;

(e) The legal authority upon which the motion is based; and

(f) A proposed order may accompany the motion, and should contain findings of fact and conclusions of law.

(6) The moving party shall file the motion, and the accompanying affidavits, declarations, and photographic or documentary evidence when necessary, with the board's office and with the presiding officer, and shall serve the motion, and the accompanying affidavits, declarations, and photographic or documentary evidence when necessary, on all other parties. The motion may not exceed twenty-five pages without permission of the presiding officer.

(7) The opposing party shall file with the adjudicative (~~(clerk)~~) clerk's office, and serve upon the moving party, a responsive memorandum, and accompanying affidavits, declarations, and photographic or documentary evidence when necessary, no later than eleven days following service of the motion, unless otherwise ordered by the presiding officer. A responsive memorandum may not exceed twenty-five pages without permission of the presiding officer.

(8) The moving party may file with the adjudicative (~~(clerk)~~) clerk's office, and serve upon the opposing party, a reply memorandum no later than five days following service of the responsive memorandum, unless otherwise ordered by the presiding officer. A reply memorandum may not exceed fifteen pages without permission of the presiding officer.

(9) Unless otherwise ordered by the presiding officer, all motions (~~(shall)~~) must be decided without oral argument. A party requesting oral argument on a motion shall so indicate by typing "ORAL ARGUMENT REQUESTED" in the caption of the motion or the responsive memorandum. If a request for oral argument is granted, the presiding officer shall notify the parties of the date and time of the argument and whether the argument will be in person or by telephone conference.

(10) Motions to shorten time or emergency motions (~~(shall)~~) must be exceptions to the rule, and a party may only make such motions in exigent or exceptional circumstances. When making such a motion, the moving party shall:

(a) Suggest a date and time when the moving party seeks to have the presiding officer hear the motion to shorten time, which should be at least forty-eight hours after filing;

(b) Suggest a date and time when the moving party seeks to have the presiding officer consider the merits of the underlying motion;

(c) Describe the exigent or exceptional circumstances justifying shortening of time in an affidavit, declaration, or (~~(a)~~) memorandum accompanying the motion;

(d) Certify that the motion to shorten time and the underlying motion have been served on all other parties prior to the filing of the motion with the presiding officer. Any opposition to the motion to shorten time must be served and filed within twenty-four hours of the service of the motion. If the presiding officer grants the motion to shorten time, the presiding officer shall notify the parties of the date by which the responsive memorandum to the underlying motion (~~(shall)~~) must be served and filed.

(11) All motions will be decided as soon as practical, but not more than thirty days following the filing of the motion. If the presiding officer will not decide the motion within this time, the presiding officer shall notify the parties in writing of the date by which the motion will be decided.

(12) If a party serves a motion or responsive memorandum by mail, pursuant to WAC 246-11-080, ~~((then))~~ three days ~~((shall))~~ will be added to the time within which the opposing party must file and serve the responsive or reply memorandum. Service by electronic telefacsimile transmission (fax) upon each party is permitted upon agreement of the parties, with proof of confirmation of service to be filed with the presiding officer.

(13) All computations of time ~~((shall))~~ must be calculated pursuant to WAC 246-11-040.

(14) Departmental motions for summary actions are exempted from all requirements of this section.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-390 Prehearing conference. (1) If a scheduling order is issued, the parties ~~((shall))~~ will be notified of the time and place of the first prehearing conference in the scheduling order. If another scheduling mechanism is issued, a prehearing conference will be held upon motion of either party, unless board policy provides otherwise.

(2) The presiding officer shall determine whether the prehearing conferences will be conducted in person or by telephone conference call.

(3) The presiding officer shall conduct the prehearing conference and shall issue rulings related to prehearing motions and evidentiary issues. The rulings ~~((shall))~~ must govern the conduct of subsequent proceedings.

(4) ~~((The))~~ A prehearing conference may be recorded as ordered by the presiding officer. All offers of proof and objections concerning matters raised at the prehearing conference must be made on the record at the prehearing conference.

(5) Following the final prehearing conference, the presiding officer shall issue a written prehearing order which will:

(a) Identify the issues to be considered at the hearing and indicate which party has the burden of proof on these issues;

(b) Specify the facts which are admitted or not contested by the parties;

(c) Identify those documents and exhibits that will be admitted at hearing and those which may be distributed prior to hearing;

(d) Identify expert and lay witnesses that may be called at hearing and the issues to which those witnesses may testify;

(e) Rule on motions;

(f) ~~((Accept amendments to the pleadings;~~

~~((g)))~~ Address such other issues or matters as may be reasonably anticipated to arise and which may aid in the disposition of the proceedings; and

~~((h)))~~ (g) Rule on objections made in any preserved testimony.

(6) Following the prehearing conference, the presiding officer may issue an order directing that the matter be heard as a brief adjudicative proceeding, pursuant to WAC 246-11-420 through 246-11-450.

(7) Documentary evidence not offered in the prehearing conference ~~((shall))~~ will not be received into evidence at the

adjudicative proceeding in the absence of a clear showing that the offering party had good cause for failing to produce the evidence at the prehearing conference.

(8) Witnesses not identified during the prehearing conference ~~((shall))~~ will not be allowed to testify at the adjudicative proceeding in the absence of a clear showing that the party offering the testimony of such witness had good cause for failing to identify the witness at the prehearing conference.

(9) If the authenticity of documents submitted at the prehearing conference is not challenged at the prehearing conference, the documents ~~((shall))~~ will be deemed authentic. However, a party ~~((shall))~~ will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to object at the prehearing conference.

(10) Nothing in these rules ~~((shall))~~ prohibit the presiding officer from conducting a conference at any time, including during the hearing. The presiding officer shall state on the record the results of such conference.

(11) A party bound by a stipulation or admission of record may withdraw it in whole or in part only upon a determination by the presiding officer or hearing officer that:

(a) The stipulation or admission was made inadvertently or as a bona fide mistake of fact or law; and

(b) The withdrawal will not unjustly prejudice the rights of the other parties.

(12) In an appeal to superior court involving issues addressed in the prehearing order, the record of the prehearing conference, written motions and responses, the prehearing order, and any orders issued by the presiding officer pursuant to WAC 246-11-380, ~~((shall be))~~ are the record.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-400 Protective orders. (1) The presiding officer shall issue a protective order to preserve confidentiality related to health care records or provider-client information as required under state and federal law including, but not limited to, chapter 70.02 RCW; Public Law No. 104-191, 110 Statute 1936 (Health Insurance Portability and Accountability Act (HIPAA)); and 45 C.F.R. Part 164.

~~((2))~~ (2) The presiding officer may issue ~~((a))~~ additional protective orders at his or her discretion:

~~((+))~~ (a) To protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense;

~~((2))~~ To preserve confidentiality related to health care records or provider-client information;

~~((3))~~ (b) To protect examination processes;

~~((4))~~ (c) To protect the identity of a person supplying information to the department or board where the person indicates a desire for nondisclosure unless that person testifies or has been called to testify at an adjudicative proceeding; or

~~((5))~~ (d) To comply with applicable state or federal law.

(3) Parties submitting exhibits for administrative proceedings are required to redact all exhibits in a manner consistent with any protective order issued by the presiding offi-

cer. The clerk's office shall not accept documents that are not redacted consistent with the protective order.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-420 Application of brief adjudicative proceedings. (1) If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

(a) A determination whether an applicant for a license meets the minimum criteria for an unrestricted license and the board proposes to deny such a license or to issue a restricted license;

(b) A determination whether a person is in compliance with the terms and conditions of a final order previously issued by the board, except final orders under RCW 18.130.-110;

(c) Any approval of a school or curriculum when such approval by the board is required by statute or rule; ~~((and))~~

(d) A determination whether a license holder requesting renewal has submitted all required information and meets minimum criteria for renewal;

(e) An action to suspend a credential under RCW 18.130.125 and 18.130.127;

(f) Issuance of written citation and assessment of a fine under RCW 18.130.230;

(g) A decision to withdraw a credential issued in error. For the purposes of this rule, "credential issued in error" means a credential issued to an individual who did not fully complete the application process or meet the credentialing requirements yet was inadvertently granted a credential; or

(h) A decision to deny a request for a list of applicants for professional licenses or for professional licensees for commercial purposes under RCW 42.56.070(8).

(2) If an adjudicative proceeding is requested in a matter not listed in subsection (1) of this section, a brief adjudicative proceeding may be conducted in the discretion of the presiding officer when it appears that:

(a) Only legal issues exist; or

(b) Both parties have agreed to a brief adjudicative proceeding; and

(c) The protection of the public interest does not require that the board provide notice and an opportunity to participate to persons other than the parties.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-425 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for a license or for approval of a school or curriculum ~~((shall))~~ must consist of:

(a) The application for the license or approval and all associated documents;

(b) All documents relied upon by the program in proposing to deny the application; and

(c) All correspondence between the applicant for license or approval and the program regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order ~~((shall))~~ must consist of:

(a) The previously issued final order;

(b) All reports or other documents submitted by the license holder, or at the direction of the license holder, in full or partial fulfillment of the terms of the final order; and

(c) All correspondence between the license holder and the program regarding compliance with the final order.

(3) The preliminary record with respect to an action to suspend a credential under RCW 18.130.125 or 18.130.127 shall consist of the report from the lending agency to the department of the licensee's nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship, and such other documents as the person making the request and the department may wish to include in the preliminary record.

(4) The preliminary record with respect to the issuance of a written citation and assessment of a fine under RCW 18.130.230 shall consist of the citation, as described in RCW 18.130.230(2), the request by the disciplining authority to produce documents, records, or other items within the licensee's control, the licensee's request for extension of time and the disciplining authority's response if a request for extension of time was made, and such other documents as the licensee or disciplining authority may wish to include in the preliminary record with respect to whether or not the licensee timely provided the items requested.

(5) The preliminary record with respect to a decision to withdraw a credential issued in error shall consist of the application for credential and any associated documents, all documents relied on by the program in proposing to withdraw the credential, and all correspondence between the person to whom the credential was issued in error and the program regarding the application or credential.

(6) The preliminary record with respect to a decision to deny a request for a list of applicants for professional licenses or of professional licensees for commercial purposes shall consist of the written request for the list, any other documents relied on by the program in proposing to deny the request, all correspondence regarding the request between the person making the request and the department, and such other documents as the person making the request and the department may wish to include in the preliminary record.

AMENDATORY SECTION (Amending WSR 96-21-027, filed 10/7/96, effective 11/7/96)

WAC 246-11-430 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings ~~((shall be))~~ are conducted by a presiding officer for brief adjudicative proceedings designated by the board. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but ~~((shall))~~ may not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings ~~((shall))~~ may not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order in accordance with WAC 246-11-540.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-440 Effectiveness of orders on brief adjudicative proceedings. (1) Initial orders on brief adjudicative proceedings ~~((shall))~~ become final twenty-one days after service of the initial order unless:

(a) Administrative review has been requested pursuant to WAC 246-11-550; or

(b) On its own initiative, the board determines to review the matter and, within twenty-one days of service of the initial order, provides notice to the parties of the date by which a determination ~~((shall))~~ will be made.

(2) If review is taken under subsection (1) of this section, each party ~~((shall))~~ must be provided an opportunity to state its view of the matter, and a written order containing findings of fact, conclusions of law, and order ~~((shall))~~ must be entered and served upon the parties within twenty days of service of the initial order or the request for review, whichever is later.

(3) A request for review is deemed to be denied if the board does not act on the request within twenty days after the request is submitted.

(4) If administrative review is taken under subsection (1) of this section, the presiding officer may convert the matter to a full adjudicative proceeding.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-450 Agency record in brief proceedings. The agency record of brief adjudicative proceedings ~~((shall))~~ must consist of:

(1) The preliminary record as set forth in WAC 246-11-425;

(2) All initiating documents including the notice of opportunity to defend;

(3) The request for adjudicative proceeding;

(4) All documents submitted in the proceeding;

(5) Any transcript or recording of any testimony or arguments presented; and

(6) All orders issued in the case.

AMENDATORY SECTION (Amending WSR 93-08-003, filed 3/24/93, effective 4/24/93)

WAC 246-11-470 Notice of adjudicative proceeding. Notice of an adjudicative proceeding ~~((shall))~~ must be issued pursuant to RCW 34.05.434.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-480 Conduct of adjudicative proceeding. (1) The adjudicative proceeding ~~((shall))~~ must be conducted as provided in RCW 34.05.449 through 34.05.455.

(2) The presiding officer may take the following actions to the extent not already determined in a prehearing order:

(a) Conduct the hearing de novo;

(b) Determine the order of presentation of evidence;

(c) Administer oaths and affirmations;

(d) Issue subpoenas;

(e) Rule on procedural matters, objections, motions, and offers of proof;

(f) Receive relevant evidence;

(g) Interrogate witnesses called by the parties in an impartial manner to develop any facts necessary to fairly and adequately decide the matter;

(h) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(i) Take any appropriate action necessary to maintain order during the adjudicative proceeding;

(j) Determine whether to permit or require oral argument or briefs and determine the time limits for submission thereof;

(k) Permit photographic and recording equipment at hearing subject to conditions necessary to preserve confidentiality and prevent disruption;

(l) Permit a person to waive any right conferred upon that person by chapter 34.05 RCW or this chapter, except as precluded by law; and

(m) Take any other action necessary and authorized by applicable law or rule.

(3) The presiding officer shall:

(a) Apply as the first source of law governing an issue those statutes and rules deemed applicable to the issue;

(b) If there is no statute or rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal and Washington Constitutions, statutes, rules, and court decisions; and

(c) Not declare any statute or rule invalid.

(4) If the validity of any statute or rule is raised as an issue, the presiding officer may permit arguments to be made on the record concerning the issue for the purpose of subsequent review.

(5) Members of the board hearing the matter may ask questions of any witness and may call additional witnesses.

(6) A party may move to disqualify the presiding officer or any member of the board pursuant to RCW 34.05.425(3).

AMENDATORY SECTION (Amending WSR 93-08-003, filed 3/24/93, effective 4/24/93)

WAC 246-11-490 Evidence. (1) The presiding officer shall rule on objections to the admissibility of evidence pursuant to RCW 34.05.452 unless those objections have been addressed in the prehearing order.

(2) The refusal of a witness to answer any question ruled proper (~~shall be grounds~~) is basis for the presiding officer, at (~~his/her~~) his or her discretion, to strike some or all prior testimony by that witness on related matters or to grant a continuance to allow a party to seek a court order to compel the witness to answer.

(3) Each person called as a witness in an adjudicative proceeding shall swear or affirm that the evidence about to be given in the adjudicative proceeding (~~shall be~~) is the truth under the provisions of RCW 5.28.020 through 5.28.060.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-510 Issuance of final order. If the adjudicative proceeding is heard by the board or a panel of the board the presiding officer and board or panel of the board shall:

(1) Issue a final order containing findings of fact and conclusions of law and an order; and

(2) Cause the adjudicative (~~clerk~~) clerk's office to serve a copy of the order on each party and any designated representative of the party.

AMENDATORY SECTION (Amending WSR 08-14-137, filed 7/1/08, effective 8/1/08)

WAC 246-11-520 Standard of proof. (1) The order (~~shall~~) must be based on the kind of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs.

(2) In all cases involving an application for license the burden (~~shall be~~) is on the applicant to establish that the application meets all applicable criteria. In all other cases the burden is on the department to prove the alleged factual basis set forth in the initiating document.

(3) Except as otherwise required by law, the burden in all cases is a preponderance of the evidence.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-530 Consolidated proceedings. (1) When two or more applications for adjudicative proceeding involve a similar issue, the applications may be consolidated by the presiding officer and the hearings conducted together. The presiding officer or hearings officer may consolidate on (~~his/her~~) his or her own motion or upon the request of a party.

(2) A party scheduled for a consolidated proceeding may request to withdraw from the consolidated proceeding in favor of an individual proceeding. The presiding officer may grant a motion to withdraw from a consolidated proceeding at any time when good cause is shown.

(3) Each respondent in a consolidated proceeding shall retain the right to representation.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-540 Initial order. (1) If the adjudicative proceeding is not heard by the board or panel of the board the presiding officer shall:

(a) Issue an initial order containing proposed findings of fact, conclusions of law, and a proposed order;

(b) Cause the adjudicative (~~clerk~~) clerk's office to serve a copy of the initial order on each party and any designated representative of a party; and

(c) Forward the initial order and record of the adjudicative proceeding to the adjudicative (~~clerk~~) clerk's office.

(2) Initial orders on brief adjudicative proceedings (~~shall~~) become final orders as provided in WAC 246-11-540.

(3) Following receipt of initial orders in matters other than brief adjudicative proceedings, the board shall review the initial order and the record as provided in RCW 34.05.464, and issue a final order as provided in WAC 246-11-560.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-550 Appeal from initial order. (1) Any party may file a written petition for administrative review of an initial order issued under WAC 246-11-430 or 246-11-540 stating the specific grounds upon which exception is taken and the relief requested.

(2) Petitions for administrative review must be served upon the opposing party and filed with the adjudicative (~~clerk~~) clerk's office within twenty-one days of service of the initial order.

(3) The opposing party may file a response to a petition for administrative review as provided in this section. The response (~~shall~~) must be filed at the place specified in subsection (2) of this section. The party filing the response shall serve a copy of the response upon the party requesting administrative review. If the initial order was entered pursuant to WAC 246-11-430, the response will be filed within ten days of service of the petition. In all other matters, the response will be filed within twenty days of service of the petition.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-560 Final orders. (1) The form and content of final orders (~~shall be as follows~~):

(a) (~~Final orders shall~~) Must contain findings of fact, conclusions of law, and an order. All final orders (~~shall~~) must be signed by a member of the panel of board members who heard the matter.

(b) (~~Final orders~~) May adopt by reference the initial order in whole or in part.

(c) (~~Final orders~~) May modify or revise the initial order in whole or in part.

(2) Final orders ~~((shall))~~ must be served upon the parties and their representatives as provided in WAC 246-11-080.

(3) Final orders ~~((shall))~~ must be issued following:

(a) A review of the record;

(b) A review of the initial order, if any;

(c) A review of any request for review of the initial order and any response thereto; and

(d) Consideration of protection of the public health and welfare.

(4) Unless a later date is stated in the final order, final orders ~~((shall))~~ will be effective when entered but a party ~~((shall))~~ is not ~~((be))~~ required to comply with a final order until the order is served upon that party.

(5) Final orders may contain orders that specified portions of the agency record ~~((shall not be))~~ are not disclosed as public records if necessary to protect privacy interests, the public welfare, or vital governmental functions. Such orders ~~((shall))~~ include but are not limited to protective orders issued during the proceeding or pursuant to WAC 246-11-400.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-580 Reconsideration of final orders. (1) Within ten days of service of a final order, either party may file a petition for reconsideration, stating the specific grounds upon which reconsideration is requested and the relief requested.

(2) Grounds for reconsideration ~~((shall be))~~ are limited to:

(a) Specific errors of fact or law; or

(b) Implementation of the final order would require department activities inconsistent with current department practice; or

(c) Specific circumstances render the person requesting the reconsideration unable to comply with the terms of the order.

(3) Petitions for reconsideration must be served upon the opposing party and filed with the adjudicative ~~((clerk))~~ clerk's office within ten days of service of the final order.

(4) If reconsideration is requested based on an error of fact, the request for reconsideration ~~((shall))~~ must contain specific reference to the record. If reconsideration is requested based on testimony of record, the request for reconsideration ~~((shall))~~ must contain specific reference to the testimony. The presiding officer may require that the party requesting reconsideration submit a copy of the transcript of the adjudicative proceeding and provide specific reference to the transcript.

(5) The petition for reconsideration is denied if, within twenty days of the date the petition is filed, the presiding officer:

(a) Denies the petition;

(b) Does not act upon the petition; or

(c) Does not serve the parties with notice of the date by which ~~((he/she))~~ he or she will act on the petition.

(6) If the presiding officer determines to act upon the petition, the opposing party ~~((shall))~~ must be provided at least ten days in which to file a response to the petition.

(7) Disposition of petitions for reconsideration ~~((shall))~~ must be in the form of a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-590 Agency record of adjudicative proceedings. (1) The department shall maintain an official record of each adjudicative proceeding.

(2) The record shall include:

(a) Notices of all proceedings;

(b) Any prehearing order;

(c) Any motions, pleadings, briefs, petitions, and requests filed, and rulings thereon;

(d) Evidence received or considered;

(e) A statement of matters officially noted;

(f) Offers of proof and objections and rulings thereon;

(g) Any proposed findings, requested orders, and exceptions;

(h) Any recording of the adjudicative proceeding and any transcript of all or part of the adjudicative proceeding considered before final disposition of the matter;

(i) Any final order, initial order, or order on reconsideration; and

(j) Matters placed on the record following an ex parte communication, if any.

(3) The record ~~((shall be))~~ is subject to disclosure as provided by ~~((RCW 42.17.250 through 42.17.340))~~ chapter 42.56 RCW, the Public Records Act, and by WAC 246-11-130, except as limited by protective orders and provisions contained in the final order.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-600 Judicial review. (1) Judicial review of actions taken under this chapter shall ~~((be as provided in))~~ comply with RCW 34.05.510 ~~((et seq)).~~

(2) Notice of the opportunity for judicial review ~~((shall))~~ must be provided in all final orders.

(3) Following a request for judicial review, the record forwarded to the reviewing court ~~((shall))~~ must be those portions of the agency record designated by the parties within the time period set by the board.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-610 Vacating an order for reason of default or withdrawal. (1) A party may petition to vacate a default order entered against that party for failing to attend an adjudicative proceeding requested by that party ~~((by))~~ for good cause. The requesting party shall:

(a) ~~((Specifying))~~ Specify the grounds relied upon in the petition; and

(b) ~~((Filing))~~ File the petition at the adjudicative ~~((clerk))~~ clerk's office and with the opposing party within seven days of service of the default order.

(2) The presiding officer shall consider the petition and shall:

(a) Grant the motion to vacate and reinstate the application for adjudicative proceeding, and may impose conditions on licensure pending final adjudication; or

(b) Deny the motion to vacate the default order.

NEW SECTION

WAC 246-11-700 Failure to comply with a disciplinary order. (1) If the disciplining authority alleges failure to comply with a disciplinary order, the board may file a motion for hearing with the adjudicative clerk's office and service a copy on the respondent.

(2) Upon receipt of the motion, the adjudicative clerk's office shall issue a notice of hearing on motion notifying the parties of the time, place and date of the administrative hearing.

(3) The sole issue at the hearing will be whether the respondent failed to comply with a disciplinary order.

(4) At the hearing, the department has the burden of proving it is more probable than not that the respondent failed to comply with a disciplinary order.

(5) The presiding officer will issue an order including findings of fact and conclusion of law.

(6) If the department has proven failure to comply with a disciplinary order, the sanction will be indefinite suspension until compliance is achieved as determined by the disciplining authority.

WSR 18-18-051
PERMANENT RULES
DEPARTMENT OF HEALTH
(Board of Naturopathy)

[Filed August 29, 2018, 4:06 p.m., effective September 29, 2018]

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

Purpose: WAC 246-836-330, 246-836-340, 246-836-350, 246-836-360, 246-836-370, 246-836-380 and 246-836-390, the board of naturopathy (board) has eliminated redundancies regarding mandatory reporting by amending one rule section and repealing six other sections. Amending WAC 246-836-330 adopts the secretary's mandatory reporting rules in chapter 246-16 WAC, which covers the same subject matter as each of the board's rules being repealed.

Citation of Rules Affected by this Order: Repealing WAC 246-836-340, 246-836-350, 246-836-360, 246-836-370, 246-836-380 and 246-836-390; and amending WAC 246-836-330.

Statutory Authority for Adoption: RCW 18.36A.160.

Other Authority: RCW 18.130.070.

Adopted under notice filed as WSR 18-05-008 on February 7, 2018.

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 the Request of a Non-governmental 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 6.

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 6.

Date Adopted: May 18, 2018.

Chad Aschtgen, ND
Board Chair

AMENDATORY SECTION (Amending WSR 12-13-104, filed 6/20/12, effective 7/21/12)

WAC 246-836-330 Mandatory reporting. ~~((1) All reports required by this chapter shall be submitted to the board as soon as possible, but no later than twenty days after a determination is made.~~

~~(2) A report should contain the following information if known:~~

~~(a) The name, address, and telephone number of the person making the report.~~

~~(b) The name and address and telephone numbers of the naturopath being reported.~~

~~(c) The case number of any patient whose treatment is a subject of the report.~~

~~(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.~~

~~(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.~~

~~(f) Any further information which would aid in the evaluation of the report.~~

~~(3) Mandatory reports shall be exempt from public inspection and copying to the extent permitted under RCW 42.17.310 or to the extent that public inspection or copying of the report or any portion of the report would invade or violate a person's right to privacy as set forth in RCW 42.17.255.~~

~~(4) A person is immune from civil liability, whether direct or derivative, for providing information to the board pursuant to RCW 18.130.070.) Any person including, but not limited to, a naturopathic physician, health care facility, or governmental agency shall always report in compliance with the uniform mandatory reporting rules found in WAC 246-16-200 through 246-16-270.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-836-340 Health care institutions.

WAC 246-836-350 Naturopathic associations or societies.

WAC 246-836-360 Health care service contractors and disability insurance carriers.

WAC 246-836-370 Professional liability carriers.

WAC 246-836-380 Courts.

WAC 246-836-390 State and federal agencies.

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 1.

Date Adopted: April 12, 2018.

Randy Anderson, DPM
Board Chair

WSR 18-18-052
PERMANENT RULES
DEPARTMENT OF HEALTH
(Podiatric Medical Board)

[Filed August 29, 2018, 4:08 p.m., effective September 29, 2018]

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

Purpose: WAC 246-922-010 Definitions (podiatric physicians and surgeons), 246-922-240 Soliciting patients, and 246-922-120 General provisions, the podiatric medical board (board) amended WAC 246-922-010 and 246-922-240 and repealed WAC 246-922-120 to establish clearer and more relevant regulations for podiatric physicians and surgeons. The board amended WAC 246-922-010 by removing outdated definitions, reordering the terms in alphabetical order, and moving necessary definitions from WAC 246-922-120 to this section of rule. WAC 246-922-120 was repealed because all relevant definitions were moved to WAC 246-922-010. An applicable statutory reference was added to WAC 246-922-240 to provide clarification.

The board anticipates the adopted amendments will result in clearer practice standards and expectations established for licensees in rule.

Citation of Rules Affected by this Order: Repealing WAC 246-922-120; and amending WAC 246-922-010 and 246-922-240.

Statutory Authority for Adoption: RCW 18.22.015.

Other Authority: RCW 18.22.005.

Adopted under notice filed as WSR 18-05-007 on February 7, 2018.

Changes Other than Editing from Proposed to Adopted Version: The board deleted a defined term from proposed WAC 246-922-010 Definitions. The term "mental or physically disabled podiatric physician and surgeon" appeared only in rule sections that were repealed by the board in April 2018, making this term no longer necessary.

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 the Request of a Non-governmental 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 2, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

AMENDATORY SECTION (Amending WSR 99-14-074, filed 7/6/99, effective 8/6/99)

WAC 246-922-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) ~~((Chiroprody,))~~ Podiatry((;)) and podiatric medicine and surgery ~~((shall be))~~ are synonymous.

(2) "Board" ~~((shall))~~ means the Washington state podiatric medical board.

(3) ~~((Secretary))~~ shall mean the secretary of the department of health.

(4) "Supervision" shall mean that a licensed podiatric physician and surgeon whose patient is being treated has personally diagnosed the condition to be treated and has personally authorized and directed the procedures to be performed. ~~A podiatric physician and surgeon shall be physically present in the treatment facility while the procedures are performed.~~

(5) "Treatment facility" means a podiatric medical office or connecting suite of offices, podiatric medical clinic, room or area with equipment to provide podiatric medical treatment, or the immediately adjacent rooms or areas. ~~A treatment facility does not extend to any other area of a building in which the treatment facility is located.~~

(6) ~~"Unlicensed person" means a person who is not a podiatric physician and surgeon duly licensed pursuant to the provisions of chapter 18.22 RCW.~~

(7)) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(4) "Nursing home" has the same meaning as that in RCW 18.51.010(3).

(5) Orthotic devices defined:

(a) Prefabricated or off-the-shelf orthotics, are devices that are manufactured as commercially available stock items for no specific patient. It is appropriate to dispense prefabricated orthotic devices for some conditions.

(b) Direct-formed orthotics are devices formed or shaped during the molding process directly on the patient's foot.

(c) Custom-fabricated orthotics, also known as custom-made orthotics, are devices designed and fabricated, in turn, from raw materials for a specific patient, and require the generation of an image, form, or mold that replicates the patient's foot, and, in turn, involves the rectification of dimensions, contours, and volumes to achieve proper fit, comfort, and function for that specific patient.

~~((Prefabricated orthotic devices that have been adjusted or modified may not be dispensed and sold to consumers as custom fabricated or custom made orthotics. All orthotic devices must be correctly represented and charged to the patient.))~~ (6) "Podiatric physician and surgeon" means a person licensed pursuant to chapter 18.22 RCW.

(7) "Secretary" means the secretary of the department of health.

(8) "Unprofessional conduct" means the conduct described in RCW 18.130.180.

AMENDATORY SECTION (Amending WSR 91-10-041, filed 4/25/91, effective 5/26/91)

WAC 246-922-240 Soliciting patients. In accordance with chapter 19.68 RCW, a podiatric physician and surgeon shall not participate in the division of fees or agree to split or divide fees received for podiatric medical services with any person for bringing or referring patients.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-922-120 General provisions.

WSR 18-18-053
PERMANENT RULES
DEPARTMENT OF HEALTH
(Podiatric Medical Board)

[Filed August 29, 2018, 4:09 p.m., effective September 29, 2018]

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

Purpose: WAC 246-922-045, 246-922-130, 246-922-140, 246-922-150, 246-922-160, 246-922-170, 246-922-180 and 246-922-190, the podiatric medical board (board) repealed one rule section concerning an examination that is no longer needed. The board is also eliminating redundancies regarding mandatory reporting by amending one rule section and repealing six other sections. The board amended WAC 246-922-130 to adopt the secretary's mandatory reporting rules in chapter 246-16 WAC, which cover the same subject matter as each of the board's mandatory reporting rules being repealed.

Citation of Rules Affected by this Order: Repealing WAC 246-922-045, 246-922-140, 246-922-150, 246-922-160, 246-922-170, 246-922-180 and 246-922-190; and amending WAC 246-922-130.

Statutory Authority for Adoption: RCW 18.22.015 and 18.130.050.

Other Authority: RCW 18.22.005.

Adopted under notice filed as WSR 18-06-008 on February 23, 2018.

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 the Request of a Non-governmental 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 7.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 7.

Date Adopted: April 12, 2018.

Randy Anderson, DPM
Board Chair

AMENDATORY SECTION (Amending WSR 91-10-041, filed 4/25/91, effective 5/26/91)

WAC 246-922-130 Mandatory reporting. ~~(((1) All reports required by these regulations shall be submitted to the board as soon as possible, but no later than sixty days after a determination is made.~~

~~(2) A report should contain the following information if known:~~

~~(a) The name, address and telephone number of the person making the report.~~

~~(b) The name, address and telephone number of the podiatric physician and surgeon being reported.~~

~~(c) The case number of any patient whose treatment is a subject of the report.~~

~~(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.~~

~~(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.~~

~~(f) Any further information which would aid in the evaluation of the report.)~~ Any person including, but not limited to, a podiatric physician and surgeon, health care facility, or governmental agency shall always report in compliance with the uniform mandatory reporting rules found in WAC 246-16-200 through 246-16-270.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-922-045 Examination conduct.

WAC 246-922-140 Health care institutions.

WAC 246-922-150 Podiatric medical associations or societies.

WAC 246-922-160 Health care service contractors and disability insurance carriers.

WAC 246-922-170 State and federal agencies.

WAC 246-922-180 Professional review organizations.

WAC 246-922-190 Malpractice suit reporting.

WSR 18-18-054
PERMANENT RULES
DEPARTMENT OF HEALTH
(Podiatric Medical Board)

[Filed August 29, 2018, 4:11 p.m., effective September 29, 2018]

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

Purpose: WAC 246-922-036 Temporary practice permit—Military spouse eligibility and issuance (podiatric physicians and surgeons), the podiatric medical board (board) adopted a new section of rule that establishes the process and criteria for applicants who are military spouses or state-registered domestic partners of military personnel to obtain temporary practice permits as podiatric physicians. The rule implements chapter 18.340 RCW regarding military spouses who moved to the state of Washington due to the transfer of the military person, and where the applicant must complete specific additional licensing requirements in Washington state.

Citation of Rules Affected by this Order: New WAC 246-922-036.

Statutory Authority for Adoption: RCW 18.22.015 and 18.340.020.

Other Authority: Chapter 18.340 RCW.

Adopted under notice filed as WSR 18-05-047 on February 14, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: April 12, 2018.

Randy Anderson, DPM
Board Chair

NEW SECTION

WAC 246-922-036 Temporary practice permit—Military spouse eligibility and issuance. A military spouse or state registered domestic partner of a military person may receive a temporary practice permit while completing any specific additional requirements that are not related to training or practice standards for podiatric physicians and surgeons. The board adopts the procedural rules as adopted by the department of health in WAC 246-12-051.

WSR 18-18-068
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 31, 2018, 1:01 p.m., effective October 1, 2018]

Effective Date of Rule: October 1, 2018.

Purpose: The department of labor and industries (L&I) is adopting amendments to the elevator licensing rules in chapter 296-96 WAC, Safety regulations and fees for all elevators, dumbwaiters, escalators, and other conveyances. L&I performed a formal review of the licensing rules to ensure consistency with industry practices, to update and clarify the rules, and make housekeeping changes.

This rule making will:

- Adopt amendments to existing licensing requirements for elevator mechanics and elevator contractors, for example:
 - Allow the renewal of temporary elevator mechanic licenses (category 09) up to twelve licenses in a twelve-month period;
 - Require applicants to demonstrate more than seventy-five percent of the education and training hours to qualify for a temporary license (category 09) if multiple licenses are requested;
 - Adopt the education and training requirements for elevator mechanics from the education policy; and
 - Add "removal" to the elevator mechanic licensing category descriptions to differentiate between removal and decommissioning of conveyances to reflect existing practices.
- Adopt proposals requested by stakeholders, for example:
 - Modified requirements to the ratio, general direction, and education and experience requirements for category 04 elevator mechanics; and
 - A new emergency license for elevator mechanics that is limited for use during a state of emergency.
- Adopt a new fee for the emergency license.
- Adopt language to update and clarify the rules, for example:
 - Clarify the existing requirements and processes for obtaining a license, renewal, and revocation;
 - Clarify the ratio of helper/apprentice to licensed elevator mechanics for various licensing categories;
 - Clarify the fees that may apply and be collected by an outside testing vendor for some elevator mechanic examinations;
 - Clarify that not all conveyances are under "full maintenance" contracts, thereby limiting the responsibility of the contractor; and
 - Remove language from the licensing category descriptions, to eliminate interchangeable terms and confusion on work that requires a license.
- Adopt language for greater consistency with statutory requirements, such as specifying those that perform conveyance work that must have an appropriate license(s).
- Eliminate duplicative language with the national conveyance safety standards to simplify the rules.

- Adopt language for general housekeeping, reformatting, grammatical and reference corrections, to eliminate the question and answer format in section titles, etc.

Citation of Rules Affected by this Order: New WAC 296-96-00908; repealing WAC 296-96-00926; and amending WAC 296-96-00900, 296-96-00902, 296-96-00903, 296-96-00904, 296-96-00906, 296-96-00907, 296-96-00910, 296-96-00912, 296-96-00914, 296-96-00916, 296-96-00918, 296-96-00920, 296-96-00922, 296-96-00924, and 296-96-00930.

Statutory Authority for Adoption: Chapter 70.87 RCW, Elevators, lifting devices, and moving walks.

Adopted under notice filed as WSR 18-12-102 on June 5, 2018.

A final cost-benefit analysis is available by contacting Alicia Curry, L&I, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov, web site www.lni.wa.gov.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 5, Repealed 1.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 15, Repealed 1.

Date Adopted: August 31, 2018.

Joel Sacks
Director

Part 1 - Licensing Requirements

Note: This part covers licensing requirements for elevator contractors and individuals working on conveyances.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00900 ~~((In general, who is required to be licensed under this chapter?))~~ **General license requirements.** (1) It is unlawful for any person, firm, partnership, corporation, or other entity to advertise, offer to do work, submit a bid, engage in, conduct, or carry on the business of installing, repairing or maintaining conveyances without having a current and valid elevator contractor or mechanic license, issued by the department in accordance with this chapter.

(2) Any person, firm, or company wishing to engage in the business of conveyance work regulated under chapter 70.87 RCW and this chapter ~~((must))~~ shall be a licensed elevator contractor.

~~((2))~~ (3) Any person wishing to perform conveyance work regulated under chapter 70.87 RCW and this chapter ~~((must))~~ shall be a licensed elevator mechanic employed by a licensed elevator contractor except as allowed in RCW 70.87.270 and WAC 296-96-00902.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-00902 ~~((Are there))~~ **Exceptions** ~~((from the))~~ **to elevator mechanic** ~~((licensing))~~ **license requirements**~~((?))~~. ~~((Yes.))~~ (1) An elevator mechanic license ~~((s))~~ issued under chapter 70.87 RCW and this chapter ~~((are))~~ is not required for:

(a) Individuals who install signal systems, fans, electric light fixtures, illuminated thresholds, finished cab flooring materials that are identical to existing materials and feed wires to the terminals on the elevator main line control provided that the individual does not require access to the pit, hoistway, or top of the car for the installation of these items.

(b) An owner or regularly employed employee of the owner performing only maintenance work of conveyances in accordance with RCW 70.87.270.

(2) Elevator mechanic licenses may not be required for certain types of incidental work that is performed on conveyances when the appropriate lockout and tagout procedures have been performed by a licensed elevator mechanic in the appropriate category. The department ~~((must))~~ shall be notified in writing and ~~((must))~~ shall approve the scope of work prior to it being performed.

(3) An elevator mechanic license in accordance with RCW 70.87.230, is not required when dismantling or removing a conveyance, ~~((as long as))~~ if the building or structure ~~((as defined by its foundation outline is totally))~~ is secure from public and unauthorized access, and:

(a) The entire building or portion thereof containing the conveyance(s) is completely demolished down to and including the foundation; or

(b) The entire building or portion thereof containing the conveyance(s) is returned to the basic supporting walls, floors, and roof.

Otherwise, the work is to be performed by a licensed elevator mechanic who works for a licensed elevator contractor.

(4) For license categories (01), (02), (03), (05), (06), (07), and (08) an individual is not required to be licensed if the individual is employed as a helper/apprentice working under the general direction of a licensed elevator mechanic provided the licensed mechanic:

(a) Is working in the same license category or as a category (01) mechanic; and

(b) Is on the same job site as the helper/apprentice at least seventy-five percent of each working day when performing installations, alterations, repairs and callbacks;

There shall not be more than one helper/apprentice assigned to a licensed elevator mechanic at any time;

(c) Provides the necessary education, assistance and supervision to ensure that the maintenance work is performed safely and to code.

(5) For license category (04), an individual is not required to be licensed if the helper/apprentice is working

under the general direction of a licensed elevator mechanic provided the mechanic:

(a) Is working in the same license category or as a category (01) mechanic; and

(b) Is on the same job site as the helper/apprentice at least one hundred percent of each working day when performing installation, alterations, repairs and callbacks.

There shall not be more than three helpers/apprentices assigned to a licensed elevator mechanic at any time.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-00903 ~~((Are there))~~ Exceptions ~~((from the))~~ to elevator contractor ~~((licensing))~~ license requirements ~~((?))~~. ~~((Yes-))~~ Elevator contractor licenses issued under chapter 70.87 RCW and this chapter are not required for:

(1) An owner or regularly employed employee of the owner performing only maintenance work of conveyances in accordance with RCW 70.87.270.

(2) A public agency that employs licensed elevator mechanics to perform maintenance.

(3) Demolition of a conveyance as outlined in RCW 70.87.230 and WAC 296-96-00902.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-00904 ~~((What must you do to become and remain a licensed))~~ License requirements for elevator contractors ~~((?))~~. (1) ~~((Obtain and maintain a valid specialty or general contractor registration under chapter 18.27 RCW to engage in the business of conveyance work.~~

~~((2))~~ Any sole proprietor, firm or corporation wishing to engage in the business of installation, alteration, service, replacement of maintenance of equipment covered by this chapter within the state of Washington shall apply for a license with the department of labor and industries.

The entities above shall obtain and maintain a valid specialty or general contractor registration under chapter 18.27 RCW to engage in the business of conveyance work.

(2) The potential licensee shall complete and submit a department-approved application. As part of the application the following shall be provided:

(a) ~~((Specify))~~ The employee who is the licensed elevator contractor's primary point of contact.

(b) The number of years the applicant has been engaged in the business of installing, constructing, altering, replacing, maintaining, removing, dismantling and/or servicing conveyances.

(c) Documentation that at least one licensed elevator mechanic is employed by the applicant.

(3) The person representing the company, firm or ~~((company))~~ corporation who is applying for the elevator contractor's license ~~((must))~~ shall be considered the company's primary point of contact and shall:

~~((i))~~ (a) Provide acceptable proof to the department that shows that the person representing the company, firm, or ~~((company))~~ corporation has five years of work experience in performing conveyance work as verified by current and pre-

vious state of Washington elevator ~~((contractor))~~ licenses ~~((to do business))~~; or

~~((ii))~~ (b) Pass a written examination administered by the department on chapter 70.87 RCW and this chapter. ~~((In the case of a firm or company, the exam will be administered to the designated primary point of contact.))~~

~~((iii))~~ (c) Failure to pass the examination will require the submittal of a new application.

~~((3))~~ (4) Pay the fees specified in WAC 296-96-00922.

~~((4))~~ (5) The department may deny application or renewal of a license under this section if the applicant owes outstanding final judgments to the department.

~~((5))~~ (6) If the primary point of contact identified in subsection (2)(a) of this section separates employment, his/her relationship or designation is terminated, or death of the designated individual occurs, the elevator contractor ~~((must))~~ shall, within ninety days, designate a new individual who has ~~((successfully completed the elevator contractor examination and))~~ met the requirement noted above to serve as the elevator contractor's primary point of contact. The elevator contractor shall inform the department of the change in writing or the ~~((elevator contractor))~~ contractor's license will be automatically suspended.

~~((6 ASME A17.1-8.11.1.7 Unique or product specific procedures or methods.))~~ (7) Where unique or product-specific procedures or methods are required to inspect or test equipment, such procedures or methods shall be:

(a) Provided in the maintenance control program.

(b) Provided by the manufacturer or installer or their license may be suspended.

~~((b))~~ (c) Available to owners for their use or used by their qualified service provider.

~~((e))~~ (d) Accessible on-site to elevator personnel (see also ASME A17.1-8.6.1.2.1(f)).

(e) Where special tools or devices are necessary for maintenance and testing of conveyances, they shall remain on-site for the life of the conveyance.

~~((7 ASME A17.1-8.6.1.2.1 A written maintenance control program shall be in place to maintain the equipment in compliance with the requirements of ASME A17.1-8.6 and this chapter.))~~ (8) Contractor licenses may be revoked for failure to comply with this subsection.

Legal maintenance contracts notwithstanding, all elevator companies and other approved maintenance providers (see RCW 70.87.270) who continuously demonstrate non-compliance with the maintenance, examination, testing, documentation, and performance of work outlined in ASME A17.1/CSA B44 and this chapter ~~((, specifically Part D, Section VI.))~~ shall:

(a) Be notified in writing by the department outlining the reason or reasons for noncompliance;

(b) Respond to the department inquiry within fifteen days;

(c) Outline a solution(s) agreeable to the department within thirty days;

(i) Otherwise the elevator company's license may be suspended until such a time as they can demonstrate compliance; and

(ii) Other approved maintenance providers shall cease maintenance, examination, and testing until such a time as

they can demonstrate compliance. Continuous demonstrations of maintenance, examination, and testing noncompliance shall result in approval being revoked.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-00906 (~~What must you do to become a licensed~~) **License requirements for elevator mechanics**(~~?~~). (1) Any person wishing to engage in the installation, alteration, service, replacement or maintenance of equipment covered by this chapter within the state of Washington shall apply for a license with the department of labor and industries.

(2) Applicants for a category (01) license as identified under WAC 296-96-00910 shall demonstrate at least one of the following qualifications in order to obtain a license without an exam:

(a) Successfully completed an apprenticeship training program for elevator mechanics and have passed the final examination required by such program; or

(b) Performed at least five thousand four hundred hours of acceptable work experience in construction, installation, maintenance, service or repair of elevators or other conveyances subject to this chapter, as verified by current and prior employers, and have passed a nationally recognized elevator mechanic's examination, such as that administered by the National Elevator Industry Education Program or as approved by the department; or

(c) Possess an elevator mechanic's license from another state that has standards substantially equal to those established in this chapter.

(3) Any person wishing to obtain a category (01) license coming from another state without licensing may obtain a license with examination by paying the required fee and submitting an application with documentation demonstrating the applicant has worked as an elevator mechanic without supervision for at least five thousand four hundred hours.

(4) Conditions for temporary elevator mechanics: In the event an elevator contractor encounters a verifiable shortage of licensed mechanics, an elevator contractor may request that the department issue temporary elevator mechanic licenses to persons certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision. Each license shall recite that it is valid for thirty days to the holder as long as he or she is employed by the licensed elevator contractor that certified the individual as qualified.

As part of the initial licensing process the applicant shall: Have seventy-five percent of both education and training hours to obtain a license (see WAC 296-96-00908).

(5) Conditions for emergency elevator mechanics: If the governor should declare a state of emergency due to a disaster, or an act of God, or other extenuating circumstances and the number of persons in the state holding valid licenses is insufficient to cope with the emergency, an elevator contractor may request emergency elevator mechanic licenses for persons who are not licensed to perform work subject to this chapter but are certified by the elevator contractor to have an

acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision. Each such license shall be valid for a period of thirty days and renewable as long as the emergency exists.

(6) The department may deny renewal or application, or suspend an individual's license if they have an outstanding final judgment.

(7) Qualify for licensing:

(a) For conveyance work covered by all categories identified in WAC 296-96-00910 except personnel hoists (04), material lifts (05), residential conveyances (06), residential inclined elevators (07) and temporary licenses (09), the applicant (~~must~~) shall comply with the applicable mechanic licensing requirements as follows:

(i) Test.

(A) The applicant (~~must~~) shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than three years' work experience in the elevator industry under the general direction of a licensed elevator mechanic performing conveyance work in the same category as verified by current and previous employers licensed to do business in this state or as an employee of a public agency;

Acceptable proof may include department-approved forms documenting years of experience, affidavits, letters from previous employers, declarations of experience, education credits, copies of contractor registration information, etc. Additional documentation may be requested by the department to verify the information provided on the application; and

(B) Pass an examination administered by the department on chapter 70.87 RCW and this chapter; or

(ii) National exam/education.

(A) Have obtained a certificate of completion and successfully passed the mechanic examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program or its equivalent; or

(B) Have obtained a certificate of completion of an apprenticeship program for an elevator mechanic, having standards substantially equal to those of chapter 70.87 RCW and this chapter, and registered with the Washington state apprenticeship and training council under chapter 49.04 RCW; or

(iii) Reciprocity. The applicant (~~must~~) shall provide acceptable proof to the department that shows that the applicant is holding a valid license from a state having entered into a reciprocal agreement with the department and having standards substantially equal to those of chapter 70.87 RCW and this chapter.

(b) For conveyance work performed on personnel hoists as identified in WAC 296-96-00910(4):

(i) Test. The applicant shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than one year's work experience in the elevator industry or not less than three years (for the purpose of this category one year will be equivalent to seven hundred hours) documented expe-

rience and education credits in conveyance work under the general direction of a licensed elevator mechanic as described in category (04) performing conveyance work in the same category as verified by current and previous employers licensed to do business in this state; and

(ii) Pass an examination administered by the department on chapter 70.87 RCW, A10.4 and this chapter.

(iii) Reciprocity. The applicant shall provide acceptable proof to the department that shows the applicant is holding a valid license from a state having entered into a reciprocal agreement with the department and having standards substantially equal to those of chapter 70.87 RCW and this chapter.

(c) For conveyance work performed on material lifts as identified in WAC 296-96-00910(5):

(i) Test. ~~((+))~~ The applicant and the licensed elevator contractor/employer ~~((must))~~ shall comply with the provisions of RCW 70.87.245; and

(ii) The applicant ~~((must))~~ shall pass an examination administered by the department on chapter 70.87 RCW and this chapter;

~~((+))~~ (d) For residential conveyance work covered by category (06) as identified in WAC 296-96-00910:

(i) Test. ~~((+))~~ The applicant ~~((must))~~ shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than two years' work experience in the elevator industry performing conveyance work as verified by current and previous employers licensed to do business in this state; and

(ii) Pass an examination administered by the department on chapter 70.87 RCW and this chapter.

~~((+))~~ (e) For residential inclined conveyance work covered by category (07) as identified in WAC 296-96-00910;

(i) Test. ~~((+))~~ The applicant ~~((must))~~ shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than one year's work experience in the elevator industry or not less than three years' documented experience and education credits in conveyance work as described in category (01) performing conveyance work as verified by current and previous employers licensed to do business in this state; and

(ii) Pass an examination administered by the department on chapter 70.87 RCW and this chapter.

~~((+))~~ (f) For temporary mechanic licenses as identified in WAC 296-96-00910 category (09) the applicant ~~((must))~~ shall provide acceptable proof from a licensed elevator contractor that attests that the ~~((temporary mechanic is certified as qualified and))~~ individual is competent to perform work under chapter 70.87 RCW and this chapter.

~~((2))~~ (8) Complete and submit a department-approved application.

An applicant who is required to take an examination under the provisions of this section may not perform the duties of a licensed elevator mechanic until the applicant has been notified by the department that he/she has passed the examination.

~~((3))~~ (9) Pay the fees specified in WAC 296-96-00922.

~~((4))~~ (10) The department may deny application of a license under this section if the applicant owes outstanding final judgments to the department or does not meet the minimum criteria established in the elevator laws and rules.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-00907 ~~((ASME A17.1 8.11.1.5)) Making safety devices ineffective.~~ ~~((No person shall at any time make any required safety device or electrical protective device ineffective, except where necessary during tests and inspections. Such devices must be restored to their normal operating condition in conformity with the applicable requirements prior to returning the equipment to service (see ASME A17.1 2.26.7).))~~ If a required safety device or electrical protective device is found ineffective during ~~((the course of))~~ normal operation the conveyance ~~((must))~~ shall be immediately taken out of service. If the authorized mechanic or elevator company is found responsible for disabling the device(s) and placing the conveyance back into service they may have their ~~((license))~~ license(s) suspended until they can demonstrate conformity to ~~((the))~~ this chapter (examples include, but are not limited to: Safety circuit, door and gate, terminal slowdowns, door reopening devices, anti-egress devices, or over current protection devices).

NEW SECTION

WAC 296-96-00908 Elevator mechanic experience and education requirements. (1) General.

(a) Applicants for an elevator mechanic license shall have an acceptable combination of documented experience and education credits in the category of license sought as prescribed in Table 1 of this section to qualify for licensing.

(b) An acceptable combination of documented experience and education credits is determined by the department.

(c) The total number of hours for acceptable years' experience performing conveyance work is determined by the department.

(2) Acceptable education credit requirements.

(a) Applicants for an elevator mechanic license shall earn a certain number of education credits every year. The number of education credits required depends upon the number of hours required for the license category.

(b) An "education credit," for the purposes of this chapter, is equivalent to one hour of educational training.

(c) Credit may be earned by one or more of the following methods:

(i) In-person college or trade school course work;

(ii) On-line courses;

(iii) Industry-sponsored programs;

(iv) Company and manufacturer-specific training.

(d) Education credits may be carried over from one twelve-month period to a subsequent twelve-month period until the appropriate number of work experience hours can be obtained for the applicant to qualify for the written examination.

(e) Elevator companies are responsible for determining the best way to train their employees in order to meet the edu-

educational requirements for the particular category of license sought.

(3) Acceptable experience requirements.

(a) Applicants for an elevator mechanic license shall obtain hands-on work experience on conveyance system installations, maintenance, repair, service, and testing with the exception of the category (08) license.

(b) Applicants pursuing the category (08) license shall obtain hands-on work experience on conveyance system maintenance and nonalteration repair and replacement.

(4) Acceptable proof of experience and education credits.

(a) The applicant shall provide the department with a complete list of education credits and copies of certificates of successful completion before the applicant can take the written examination administered by the department.

(b) For an initial license, the applicant may need to take and pass the written examination. To qualify for the written examination or a license, the applicant shall earn a certain number of education and work experience hours. The department recommends these hours include the following subjects depending on the type of licensing category:

- Basic safety, electricity, rigging and hoisting.

- Basic introduction to maintenance practices.
- Electrical theory, electronics, and electrical operation.
- Electrical wiring, equipment, installation and maintenance.
- Conveyance safety testing.
- Suspension maintenance and testing.
- Installation of pits, rails, machine rooms, and hoistways.
- Hydraulic theory, operation, and installation.
- Elevator doors and door operators.
- Conveyance installation and related construction.
- Escalators/moving walks installation, maintenance and testing.
- Applicable national and state codes (ASME, NFPA, ADA, WAC, etc.).

(c) A detailed list of courses meeting the requirements of this chapter will be maintained by the department.

(5) Experience and education hours required by category. Applicants for an elevator mechanic license shall complete the following education and work experience hours in the applicable licensing category to qualify for written examination or a license:

Table 1

Experience and Education Hours

License Category	Minimum Hours of Education Credits Required to be Eligible for Licensing	Total Minimum Hours of Combined Education Credits and Work Experience to be Eligible for Licensing
Category (01)	144 hours per twelve-month period for three consecutive twelve-month periods for a total of 432 hours	1,800 hours per twelve-month period for three consecutive twelve-month periods for a total of 5,400 hours
Category (02)	90 hours per twelve-month period for three consecutive twelve-month periods for a total of 270 hours	1,800 hours per twelve-month period for three consecutive twelve-month periods for a total of 5,400 hours
Category (03)	90 hours per twelve-month period for three consecutive twelve-month periods for a total of 270 hours	1,800 hours per twelve-month period for three consecutive twelve-month periods for a total of 5,400 hours
Category (04)	80 hours total	700 hours will be the equivalency of 1 year for a total of 2,100 hours (3 years)
Category (05) ¹	N/A	N/A
Category (06)	40 hours per twelve-month period for two consecutive twelve-month periods for a total of 80 hours	1,200 hours per twelve-month period for two consecutive twelve-month periods for a total of 2,400 hours
Category (07)	40 hours per twelve-month period for one twelve-month period for a total of 40 hours	1,800 hours per twelve-month period for three consecutive twelve-month periods for a total of 5,400 hours
Category (08)	144 hours per twelve-month period for three consecutive twelve-month periods for a total of 432 hours	1,800 hours per twelve-month period for three consecutive twelve-month periods for a total of 5,400 hours
Category (09) ²	75% of the educational hours in the category of the license sought	75% of the experience hours in the category of the license sought
Category (10) Emergency License	As certified by the elevator contractor	As certified by the elevator contractor

Notes: ¹Category (05): The applicant shall meet the experience and education requirements per RCW 70.87.245.

²Category (09): The applicant shall meet the experience and education requirements per WAC 296-96-00906 and 296-96-00912.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-00910 (~~What are the~~) **Elevator mechanic license categories**(~~(?)~~). The following are the licensing categories for qualified elevator mechanics or temporary elevator mechanics:

(1) **Category (01)**: A general elevator mechanic license encompasses (~~mechanical and electrical operation, construction,~~) the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of all types of elevators and other conveyances in any location covered under chapter 70.87 RCW and this chapter.

(2) **Category (02)**: This license is limited to the (~~mechanical and electrical operation, construction,~~) installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of the following commercial and residential conveyances:

(a) Residential conveyances:

- (i) Wheelchair lifts*;
- (ii) Dumbwaiters;
- (iii) Incline chairlifts*;
- (iv) Residential elevators(~~(?)~~).

*License is not required to remove these.

(b) Commercial conveyances:

- (i) Wheelchair lifts;
- (ii) Dumbwaiters; (~~and~~)
- (iii) Incline chairlifts(~~(?)~~); and
- (iv) LULA elevators.

(3) **Category (03)**: This license is limited to the (~~mechanical and electrical operation, construction,~~) installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of the following conveyances in industrial sites and grain terminals:

- (a) Electric and hand powered manlifts;
- (b) Special purpose elevators; and
- (c) Belt manlifts.

(4) **Category (04)**: This license is limited to the (~~mechanical and electrical operation, construction,~~) installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of the following conveyances:

- (a) Temporary personnel hoists;
- (b) Temporary material hoists; and
- (c) Special purpose elevators.

(5) **Category (05)**: This license is limited to the (~~mechanical and electrical operation, construction,~~) installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of material lifts.

(6) **Category (06)**:

(a) This license is limited to the (~~mechanical and electrical operation, construction,~~) installation, alteration, maintenance, inspection, relocation, decommission, and repair of the following conveyances:

- (i) Residential wheelchair lifts;
- (ii) Residential dumbwaiters; and
- (iii) Residential incline chairlifts.

(b) Work experience on conveyances in (a)(i), (ii), and (iii) of this subsection may not be all inclusively applied toward the category (02) license requirements.

Note: Maintenance work performed by the owner or at the direction of the owner is exempted from licensing requirements (~~provided that~~) if the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the (~~general~~) public. Such exempt work does not count toward work experience for licensure.

(7) **Category (07)**: This license is limited to the (~~mechanical and electrical operation, construction,~~) installation, alteration, maintenance, inspection, relocation, decommission, and repair of residential inclined elevators.

Note: Maintenance work performed by the owner or at the direction of the owner is exempted from licensing requirements (~~provided that~~) if the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the (~~general~~) public. Such exempt work does not count toward work experience for licensure.

(8) **Category (08)**: This license is limited to maintenance and nonalteration repair and replacement of all conveyances and is further limited to employees of public agencies to obtain and maintain the license. This work should not count towards other licenses.

(9) **Category (09)**: (~~This~~) A temporary license is limited to the (~~mechanical and electrical operation, construction,~~) installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of conveyances(~~(-~~ This license is limited to individuals that are certified as qualified and competent by licensed elevator contractors and have met the education and training requirements in the category of license for the work performed. See policy number 07-16-104. The individual must be an employee of the licensed elevator contractor. The contractor shall furnish acceptable proof of competency as the department may require. Each license must recite that it is valid for a period of thirty days from the date of issuance and for such particular elevators or geographical areas as the department may designate, and otherwise entitles the licensee to the rights and privileges of an elevator mechanic license issued under chapter 70.87 RCW and this chapter.

Note: See policy number 07-16-104.)

in the category for which the license is sought. The license shall be issued pursuant to the conditions of RCW 70.87.250.

(10) Category (10): An emergency license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of conveyances by elevator mechanics that are certified by an elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision and is further limited for use during a state of emergency.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-00912 ~~((How long is the elevator contractor, elevator mechanic, and temporary mechanics licensing period and what is required for renewal?))~~
License renewal requirements. ~~((1) Elevator contractors:~~

~~(a) The renewal period is two years from the date of issuance.~~

~~(b) As part of the renewal process the elevator contractor must:~~

~~(i) Complete and submit a department approved application.~~

~~(ii) Designate an employee as a primary point of contact.~~

~~(iii) Pay the fees specified in WAC 296-96-00922.~~

~~(2) Elevator mechanics (category 01-08).~~

~~(a) The renewal period is two years from the date of your birthday. The initial license may be for a shorter period as follows. If your birth year is:~~

~~(i) In an even-numbered year, your certificate will expire on your birth date in the next even-numbered year.~~

~~(ii) In an odd-numbered year, your certificate will expire on your birth date in the next odd-numbered year.~~

~~(b) As part of the renewal process you must:~~

~~(i) Complete and submit a department approved application.~~

~~(ii) Have attended an approved continuing education course and submitted a certificate of completion for the course. The course must consist of not less than eight hours of instruction that must have been attended and completed within one year immediately preceding any license renewal.~~

~~(iii) Pay the fees specified in WAC 296-96-00922.~~

~~(3)) (1) An elevator contractor or elevator mechanic license issued pursuant to this chapter shall be valid for a period of two years and may be renewed by submission of a renewal application to the department, payment of a renewal fee as specified in WAC 296-96-00922 and proof of compliance with the requirements of this chapter.~~

~~(a) Elevator contractor licenses expire on the calendar date two years from issuance.~~

~~Upon renewal the elevator contractor shall verify the primary point of contact information is correct.~~

~~(b) Elevator mechanic licenses expire on the licensee's birth date in the calendar year two years from the year of application. It is noted that the initial license term may be valid for a longer or shorter period of time depending on when the licensee's birthday falls compared to the date on which the initial license was issued.~~

~~(i) If a license is issued in an even-numbered year, the license will expire on the license holder's birth date in the next even-numbered year.~~

~~(ii) If a license is issued in an odd-numbered year, the license will expire on the license holder's birth date in the next odd-numbered year.~~

~~(c) Renewal of an elevator mechanic license shall be conditioned upon completion of not less than eight hours of instruction within one year immediately preceding a license renewal application and submission of a certificate of completion for the course. Continuing education courses and instructors shall be approved by the department.~~

~~(2) Temporary elevator mechanics (category ((9)) (09)). The renewal is limited to ((two consecutive months and further limited by)) no greater than ((six permits issued)) twelve times in a twelve-month period. The limitation may be extended at the discretion of the department. Examples include, but are not limited to, abnormally high rate of construction((;)) or natural disaster ((or work stoppage)).~~

~~(a) The renewal period is thirty days from the date of issuance.~~

~~(b) As part of the renewal process ((you must)) the applicant shall:~~

~~(i) Complete and submit a department-approved application.~~

~~(ii) Pay the fees specified in WAC 296-96-00922.~~

~~(iii) Have seventy-five percent of both education and training hours to obtain a license (see ((education policy)) WAC 296-96-00908).~~

Note: The department may require the applicant demonstrate more than seventy-five percent of education hours if multiple temporary licenses are requested.

~~((4)) (3) The department may deny renewals of licenses under this section if the applicant owes outstanding final judgments to the department. Final judgment also includes any penalties assessed against an individual or firm owed the department because of an unappealed civil penalty or any outstanding fees due under chapter 70.87 RCW and this chapter.~~

~~((5)) (4) Renewals will be considered timely when the renewal application is received on or prior to the expiration date of the license.~~

~~((6) Late renewal is for) (5) Renewals are considered late if the renewal applications are received after the expiration date of the license but no later than ninety days after the expiration of the licenses. If the application is not received within ninety days from license expiration, the licensee must reapply and pass the competency examination.~~

~~((7)) (6) A mechanic licensed in the state of Washington may take a withdrawal if they are no longer working for a company licensed in the state or no longer performing work that requires a license. A mechanic holding a valid license that wishes to withdraw their license ((must)) shall submit their request, in writing, to the department of labor and industries elevator section prior to the license expiration date. To cancel a withdrawal request and be reinstated, the mechanic ((must)) shall submit their request in writing, reapply, complete the ((current)) required continuing education, and pay the renewal licensing fee.~~

Part 2 - Continuing Education

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00914 ~~((Where can you obtain information regarding department approved)) Continuing education course providers((?)). The department ((will)) shall produce a list of all approved training course providers and/or course contact persons that provide continuing education courses required under chapter 70.87 RCW and this~~

chapter. This list will be available to all renewal applicants who request it.

The department may also provide continuing education training.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00916 (~~Who approves and what is the process for becoming a~~) Continuing education course provider(?) requirements. (1) The department approves continuing education course providers.

(2) The department will review and approve courses.

(a) All providers seeking course approval ~~((must))~~ shall submit the required information to the department on a form provided by the department.

(b) The courses ~~((must))~~ shall be taught by instructors through continuing education providers; courses may include but are not limited to, association seminars and labor training programs.

(c) All instructors ~~((must))~~ shall be approved by the department and are exempt from the requirements of WAC 296-96-00912 (2)(b)(ii) ~~((with regard to))~~ regarding his or her application for license renewal, provided that such applicant was qualified as an instructor at any time during the one year immediately preceding the scheduled date for such renewal and the instructor ~~((must teach))~~ shall have taught two or more courses in the year preceding the renewal.

(d) All training courses ~~((must))~~ shall conform to and be based upon current standards and requirements governing the operation, construction, installation, alteration, inspection and repair of elevators and other conveyances.

(e) All course approval requests ~~((must))~~ shall include:

(i) A general description of the course, including its scope, the instructional materials to be used and the instructional methods to be followed;

(ii) A detailed course outline;

(iii) A sample copy of the certificate that will be provided to the attendee. The certificate shall note the name of the course, the number of hours as approved by the department, a course number if one has been assigned by the provider, the date the education was completed and the instructor's signature.

~~((iv))~~ (iv) The name and qualifications of the course instructor(s);

~~((iv))~~ (v) The locations where the course will be taught;

~~((v))~~ (vi) The days and hours the course will be offered; and

~~((vi))~~ (vii) The specific fees associated with the course, as well as, the total cost of the course.

(f) Training courses will be approved for a two-year period.

(g) It is the responsibility of the provider to annually review and update its courses and to notify the department of any changes.

(h) The department may withdraw its approval of any training course if it determines the provider is no longer in compliance with the requirements of this chapter. If the department withdraws its approval of a training course, it will

give the provider written notification of the withdrawal, specifying the reasons for its decision.

(i) Approved training providers ~~((must))~~ shall keep uniform records, for a period of ten years, of attendance of licensees and these records ~~((must))~~ shall be available for inspection by the department at its request. The provider ~~((must))~~ shall submit a list of names of the attendees to the department on or before thirty days after the date of the course being held. Approved training providers are responsible for the security of all attendance records and certificates of completion. Falsifying or knowingly allowing another to falsify attendance records or certificates of completion constitutes grounds for suspension or revocation of the approval required under this section.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00918 (~~Who is exempt from the~~) Exemptions to continuing education requirements(?). The following individuals are exempt from continuing education requirements:

(1) A licensee who is unable to complete the continuing education course required under this section before the expiration of his or her license due to a temporary disability may apply for a waiver from the department. Application shall be made on a form provided by the department and signed under the penalty of perjury and accompanied by a certified statement from a competent physician attesting to the temporary disability. Upon the termination of the temporary disability, the licensee ~~((must))~~ shall submit to the department a certified statement from the same physician, if practicable, attesting to the termination of the temporary disability at which time a waiver sticker, valid for ninety days, ~~((must))~~ shall be issued to the licensee and affixed to his or her license.

The licensee can work during the time that a certified statement from the physician releasing the licensee to return to work is submitted to the department. The licensee has ninety days from this date to take the required courses ~~((in order))~~ to renew his/her license. If the licensee has not taken the required courses on or before the ninetieth day from the date the certified statement was sent in to the department, ~~((he/she))~~ the licensee will no longer be able to perform work.

(2) Approved instructors under WAC 296-96-00916 with regard to ~~((his or her))~~ the instructor's application for license renewal, ~~((provided that))~~ if such applicant was qualified as an instructor at any time during the one year immediately preceding the scheduled date for such renewal ~~((and that))~~. The instructor ~~((must teach))~~ shall have taught two or more courses in the year preceding the renewal.

Part 3 - License Examinations, Fees, and Penalties

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00920 (~~When and where are~~) Elevator licensing examinations (held?). Examinations shall be held at locations and times when considered necessary by the

department. The department will notify qualified applicants of the date, time, and location of the examination.

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

WAC 296-96-00922 ~~((What are the fees associated with))~~ **Licensing(?) fees.** The following are the department's elevator license fees:

Type of Fee	Period Covered by Fee	Dollar Amount of Fee
Elevator contractor/mechanic application fee (not required for renewal of valid license)	Per application	\$64.30
Elevator contractor/mechanic examination fee	Per application	\$193.60***
Reciprocity application fee	Per application*	\$64.30
Elevator mechanic license	2 years	\$129.00
Elevator contractor license	2 years	\$129.00
Temporary elevator mechanic license	30 days	\$32.00
<u>Emergency elevator mechanic license</u>	<u>30 days</u>	<u>\$32.00</u>
Elevator mechanic/contractor timely renewal fee	2 years	\$129.00
Elevator mechanic/contractor late renewal fee	2 years	\$258.30
Training provider application/renewal fee	2 years	\$129.00
Continuing education course fee by approved training provider	1 year**	Not applicable
Replacement of any licenses		\$19.20
Refund processing fee		\$38.50

* Reciprocity application is only allowed for applicants who are applying for licensing based upon possession of a valid license that was obtained in state(s) with which the department has a reciprocity ((agreement)).

** This fee is paid directly to the continuing education training course provider approved by the department.

***This fee may be collected by an outside vendor for some exams and may differ from the fee shown above.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-00924 ~~((What procedures does the department follow when issuing a))~~ **Civil ((penalty)) penalties for licensing violations((?)).** (1) If the department determines that ~~((an individual))~~ a person, firm, or company has violated the licensing requirements of chapter 70.87 RCW or this chapter, the department may issue a civil penalty describing the reasons for the violation(s). The department may issue a civil penalty to:

(a) A person, firm, or company who is advertising, offering to do work or submitting a bid to perform conveyance work, or employing elevator mechanics and does not have a valid elevator contractor's license as required under chapter 70.87 RCW or this chapter; or

(b) An individual who is offering to do work or working under chapter 70.87 RCW or this chapter and does not have a valid elevator mechanic license.

(2) A person, firm, or company may appeal a civil penalty issued under chapter 70.87 RCW or this chapter.

(3) A person, firm, or company cited for a violation under chapter 70.87 RCW or this chapter may be assessed a civil (monetary) penalty based upon the following schedule:

<u>First violation</u>	<u>\$500.00</u>
<u>Each additional violation</u>	<u>\$500.00</u>

(4) Each day a person, firm, or company is in violation may be considered a separate violation.

(5) Each job site at which a person, firm, or company is in violation may be considered a separate violation.

(6) The department shall serve notice by certified mail to a person, firm, or company for a violation of chapter 70.87 RCW or this chapter. A violation will be considered served on the date it is mailed to his or her last known address on record with the department.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00930 ~~((What if I owe))~~ **Outstanding ((final)) judgments ((to the department?)).** The department may deny renewal or application of, or suspend ((your)) a license if ((you have an)) there are any outstanding final judgments.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-96-00926 What are the civil (monetary) penalties for violating the licensing requirements of chapter 70.87 RCW or this chapter?

WSR 18-18-070
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 31, 2018, 1:02 p.m., effective October 1, 2018]

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

Purpose: The department of labor and industries is adopting amendments to the elevator rules in chapter 296-96 WAC, Safety regulations and fees for all elevators, dumbwaiters, escalators, and other conveyances. The department performed a formal review of the rules to adopt new safety code requirements, to update and clarify the rules, and make housekeeping changes. This rule making excludes the elevator licensing rules (Part B—Elevator Contractor and Conveyance Mechanic Licenses and Regulations and Fees), due to a separate rule making in progress.

This rule making will:

- Adopt new safety code requirements for conveyances in the state of Washington. This includes:
 - American Society of Mechanical Engineers (ASME), Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, and Special Purpose Elevators (ASME A17.1-2016/CSA B44 -16);
 - ASME A17.2 Guide for the Inspection of Elevators, Escalators, & Moving Walks (2017);
 - ASME A17.3 Safety Code for Existing Elevators and Escalators (2015);
 - ASME A18.1 Safety Standard for Platform Lifts and Stairway Chairlifts (2017);
 - ASME A90.1 Safety Code for Belt Manlifts (2015);
 - American Society of Safety Engineers (ASSE)/American National Standards Institute (ANSI) A10.4 Safety Code for Personnel Hoists (2016); and
 - ASSE/ANSI A10.5 Safety Code for Material Hoists (2013).
- Adopt references to other safety codes, such as the National Electrical Code, International Code Council and National Fire Protection Agency.
- Adopt exceptions to the national safety code requirements, such as allowing a time frame for owners to comply with ASME A17.3 without penalty.
- Adopt proposals requested by stakeholders, for example:
 - Allow replacement data tags to be created with known information in the event of missing tags to provide an affordable and reasonable means for customers to comply with data tag requirements;
 - Remove the requirement for installation of pit switches between thirty-six and forty-eight inches above the bottom landing to eliminate safety hazards for elevator mechanics performing work in the pit and the undue financial burden for building owners;
 - Remove the requirements to obtain a permit for certain repairs and replacements to eliminate unnecessary costs for building owners and elevator contractors; and
 - Relocate various sections in Part C to Part D requirements to eliminate duplication, reduce confusion in enforcement, and eliminate unnecessary additional costs for customers.
- Adopt rules for clarity, to improve safety and reflect the existing processes and practices of the department, for example:
 - Clarify that approved installation or alteration permits must be posted along with approved plans issued by the department on the job site;
 - Clarify where light needs to be measured in the pit and machine room for better illumination;
 - Establish new definitions, such as "layout drawings, engineering" to clarify that engineering drawings are different than shop drawings and which of these drawings must be stamped by an engineer;
 - Clarify that shunt-trip breakers need to be in the elevator machine or control room where it is less likely to be reset by persons other than elevator personnel who have surveyed the equipment after a sprinkler discharge in the hoistway or machine/control room;
 - Require that handrails installed in elevator cars comply with the Americans with Disabilities Act (ADA) requirements;
 - Require that governor overspeed testing in chair lifts be tested by the manufacturer with documentation;
 - Clarify the procedures for units placed out-of-service on a voluntary basis; and
 - Clarify the department's process when investigating an injury-related accident reported by the owner or owner's duly authorized agent to align with the statute.
- Adopt amendments to align with Department of Safety and Health (DOSH) requirements for confined space.
- Adopt amendments to bring the rules up-to-date, for example:
 - Eliminate the requirement to submit two sets of plans, since plans are now received and returned electronically and only one set is needed; and
 - Require that periodic test results be retained on-site for review by elevator personnel instead of submitting the results to the department for approval.
- Exclude residential incline chair lifts that are labeled and listed by a product-testing laboratory from plan review requirements to reduce the processing time for review of plans that are essentially similar.
- Allow the elevator safety advisory committee (ESAC) to appoint a new member to fill the remainder of a member's term if the member cannot fulfill their obligation.
- Adopt rules for general housekeeping, reformatting and relocating of certain sections, grammatical and reference corrections, to eliminate the question and answer format in section titles, etc.

Citation of Rules Affected by this Order: New WAC 296-96-00675, 296-96-05000, 296-96-23000, 296-96-24000, 296-96-24100, 296-96-24103, 296-96-24106, 296-96-24109, 296-96-24112, 296-96-24115, 296-96-24118, 296-96-24121, 296-96-24124, 296-96-24127, 296-96-24130, 296-96-24133, 296-96-24136, 296-96-24139, 296-96-24142, 296-96-24145, 296-96-24148, 296-96-24151, 296-96-24154, 296-96-24157, 296-96-24160, 296-96-24163, 296-96-24166, 296-96-24169, 296-96-24172, 296-96-24175, 296-96-24178, 296-96-24200,

296-96-24203, 296-96-24206, 296-96-24209, 296-96-24212, 296-96-24215, 296-96-24218, 296-96-24221, 296-96-24225, 296-96-24228, 296-96-24231, 296-96-24234, 296-96-24237, 296-96-24240, 296-96-24243, 296-96-24246, 296-96-24249, 296-96-24252, 296-96-24255, 296-96-24258, 296-96-24261, 296-96-24264, 296-96-24267, 296-96-24270, 296-96-24273, 296-96-24276, 296-96-24279, 296-96-24301, 296-96-24350, 296-96-24401, 296-96-24416, 296-96-24419, 296-96-24422, 296-96-24425, 296-96-24428, 296-96-24431, 296-96-24434, 296-96-24437, 296-96-24440, 296-96-24445, 296-96-24448, 296-96-24451, 296-96-24454, 296-96-24457, 296-96-24460, 296-96-24466, 296-96-24470, 296-96-24478, 296-96-24480, 296-96-24500, 296-96-24516, 296-96-24519, 296-96-24522, 296-96-24525, 296-96-24528, 296-96-24531, 296-96-24534, 296-96-24537, 296-96-24540, 296-96-24543, 296-96-24547, 296-96-24550, 296-96-24553, 296-96-24557, 296-96-24560, 296-96-24600, 296-96-24611, 296-96-24620, 296-96-24630, 296-96-24635, 296-96-24640, 296-96-24645, 296-96-24650, 296-96-24655, 296-96-24660, 296-96-24665, 296-96-24670, 296-96-24700, 296-96-24703, 296-96-24706, 296-96-24709, 296-96-24712, 296-96-24715, 296-96-24718, 296-96-24721, 296-96-24724, 296-96-24727, 296-96-24730, 296-96-24733, 296-96-24736, 296-96-24739, 296-96-24742, 296-96-24745, 296-96-24748, 296-96-24751, 296-96-24754, 296-96-24757, 296-96-24760, 296-96-24765, 296-96-24770, 296-96-24775 and 296-96-24780; repealing WAC 296-96-01012, 296-96-01050, 296-96-02401, 296-96-02411, 296-96-02420, 296-96-02450, 296-96-02451, 296-96-02455, 296-96-02466, 296-96-02475, 296-96-02480, 296-96-02485, 296-96-02486, 296-96-02495, 296-96-02500, 296-96-02505, 296-96-02510, 296-96-02515, 296-96-02520, 296-96-02535, 296-96-02540, 296-96-02545, 296-96-02550, 296-96-02551, 296-96-02555, 296-96-02556, 296-96-02557, 296-96-02560, 296-96-02564, 296-96-02566, 296-96-02567, 296-96-02568, 296-96-02570, 296-96-02575, 296-96-02585, 296-96-02595, 296-96-02600, 296-96-02620, 296-96-02625, 296-96-02630, 296-96-05009, 296-96-07010, 296-96-07020, 296-96-07021, 296-96-07024, 296-96-07030, 296-96-07035, 296-96-07040, 296-96-07050, 296-96-07060, 296-96-07070, 296-96-07080, 296-96-07090, 296-96-07100, 296-96-07110, 296-96-07120, 296-96-07130, 296-96-07140, 296-96-07160, 296-96-07170, 296-96-07171, 296-96-07180, 296-96-07190, 296-96-07200, 296-96-07210, 296-96-07215, 296-96-07220, 296-96-07230, 296-96-07240, 296-96-07250, 296-96-08010, 296-96-08020, 296-96-08022, 296-96-08024, 296-96-08030, 296-96-08035, 296-96-08050, 296-96-08060, 296-96-08070, 296-96-08080, 296-96-08090, 296-96-08100, 296-96-08110, 296-96-08140, 296-96-08150, 296-96-08160, 296-96-08170, 296-96-08175, 296-96-08180, 296-96-08190, 296-96-08200, 296-96-08210, 296-96-08215, 296-96-08220, 296-96-08230, 296-96-08240, 296-96-08250, 296-96-09001, 296-96-09002, 296-96-09003, 296-96-09004, 296-96-10001, 296-96-10002, 296-96-11001, 296-96-11010, 296-96-11016, 296-96-11019, 296-96-11022, 296-96-11025, 296-96-11028, 296-96-11031, 296-96-11034, 296-96-11037, 296-96-11040, 296-96-11045, 296-96-11048, 296-96-11051, 296-96-11054, 296-96-11057, 296-96-11060, 296-96-11066, 296-96-11070, 296-96-11078, 296-96-13135, 296-96-13136, 296-96-13139, 296-96-13143, 296-96-13145, 296-96-13147, 296-96-13149, 296-96-13151, 296-96-13153, 296-96-13155, 296-96-13157, 296-96-13159, 296-96-13161, 296-96-13167,

296-96-13169, 296-96-13171, 296-96-14010, 296-96-14011, 296-96-14020, 296-96-14025, 296-96-14030, 296-96-14035, 296-96-14040, 296-96-14045, 296-96-14050, 296-96-14055, 296-96-14060, 296-96-14065, 296-96-14070, 296-96-14075, 296-96-14080, 296-96-16010, 296-96-16011, 296-96-16020, 296-96-16030, 296-96-16040, 296-96-16050, 296-96-16060, 296-96-16070, 296-96-16080, 296-96-16090, 296-96-16100, 296-96-16110, 296-96-16120, 296-96-16130, 296-96-16140, 296-96-16150, 296-96-16160, 296-96-16170, 296-96-16180, 296-96-16190, 296-96-16200, 296-96-16210, 296-96-16220, 296-96-16230, 296-96-16240, 296-96-23105, 296-96-23110, 296-96-23111, 296-96-23113, 296-96-23121, 296-96-23124, 296-96-23125, 296-96-23131, 296-96-23133, 296-96-23140, 296-96-23150, 296-96-23151, 296-96-23152, 296-96-23153, 296-96-23154, 296-96-23155, 296-96-23156, 296-96-23157, 296-96-23160, 296-96-23161, 296-96-23162, 296-96-23165, 296-96-23166, 296-96-23203, 296-96-23206, 296-96-23207, 296-96-23208, 296-96-23209, 296-96-23215, 296-96-23216, 296-96-23220, 296-96-23221, 296-96-23222, 296-96-23225, 296-96-23226, 296-96-23227, 296-96-23228, 296-96-23229, 296-96-23235, 296-96-23236, 296-96-23240, 296-96-23241, 296-96-23243, 296-96-23244, 296-96-23245, 296-96-23250, 296-96-23255, 296-96-23256, 296-96-23260, 296-96-23261, 296-96-23262, 296-96-23264, 296-96-23266, 296-96-23268, 296-96-23269, 296-96-23270, 296-96-23272, 296-96-23274, 296-96-23276, 296-96-23277, 296-96-23278, 296-96-23279, 296-96-23280, 296-96-23282, 296-96-23284, 296-96-23285, 296-96-23287, 296-96-23288, 296-96-23289, 296-96-23290, 296-96-23291, 296-96-23300, 296-96-23302, 296-96-23304, 296-96-23307, 296-96-23309, 296-96-23311, 296-96-23313, 296-96-23316, 296-96-23318, 296-96-23321, 296-96-23322, 296-96-23323, 296-96-23324, 296-96-23325, 296-96-23326, 296-96-23328, 296-96-23330, 296-96-23332, 296-96-23334, 296-96-23336, 296-96-23338, 296-96-23340, 296-96-23342, 296-96-23344, 296-96-23400, 296-96-23405, 296-96-23408, 296-96-23410, 296-96-23412, 296-96-23414, 296-96-23416, 296-96-23418, 296-96-23420, 296-96-23422, 296-96-23424, 296-96-23427, 296-96-23429, 296-96-23431, 296-96-23432, 296-96-23434, 296-96-23436, 296-96-23438, 296-96-23440, 296-96-23442, 296-96-23444, 296-96-23446, 296-96-23448, 296-96-23450, 296-96-23455, 296-96-23460, 296-96-23465, 296-96-23500, 296-96-23510, 296-96-23540, 296-96-23600, 296-96-23601, 296-96-23602, 296-96-23603, 296-96-23604, 296-96-23610, 296-96-23620, 296-96-23621, 296-96-23630, 296-96-23710, 296-96-23800 and 296-96-23810; and amending WAC 296-96-00600, 296-96-00650, 296-96-00700, 296-96-00800, 296-96-00805, 296-96-01000, 296-96-01005, 296-96-01006, 296-96-01008, 296-96-01009, 296-96-01010, 296-96-01025, 296-96-01027, 296-96-01030, 296-96-01035, 296-96-01040, 296-96-01045, 296-96-01055, 296-96-01057, 296-96-01060, 296-96-01065, 296-96-01070, 296-96-01075, 296-96-02400, 296-96-02405, 296-96-02410, 296-96-02415, 296-96-02421, 296-96-02425, 296-96-02452, 296-96-02460, 296-96-02465, 296-96-02470, 296-96-02471, 296-96-02481, 296-96-02490, 296-96-02525, 296-96-02530, 296-96-02552, 296-96-02558, 296-96-02580, 296-96-02590, 296-96-02605, 296-96-02640, 296-96-05010, 296-96-05020, 296-96-05030, 296-96-05040, 296-96-05050, 296-96-05070, 296-96-05080, 296-96-05090, 296-96-05100, 296-96-05120, 296-96-05140, 296-96-05150, 296-96-05160, 296-96-05170,

296-96-05190, 296-96-05200, 296-96-05210, 296-96-05220, 296-96-05230, 296-96-05240, 296-96-05260, 296-96-05290, 296-96-07150, 296-96-11080, 296-96-18010, 296-96-18011, 296-96-18020, 296-96-18030, 296-96-18040, 296-96-18050, 296-96-18060, 296-96-18070, 296-96-18080, 296-96-20005, 296-96-20010, 296-96-23100, 296-96-23101, 296-96-23115, 296-96-23116, 296-96-23117, 296-96-23118, 296-96-23119, 296-96-23122, 296-96-23123, 296-96-23126, 296-96-23130, 296-96-23132, 296-96-23158, 296-96-23200, 296-96-23205, 296-96-23283, 296-96-23303, 296-96-23605, 296-96-23606, 296-96-23700, and 296-96-23701.

Statutory Authority for Adoption: Chapter 70.87 RCW, Elevators, lifting devices, and moving walks.

Adopted under notice filed as WSR 18-12-103 on June 5, 2018.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made from the proposed to adopted version:

- WAC 296-96-00675 Amendments to adopted standards, was amended to exclude some ASME A17.3 requirements from adoption. The following language was added in this section to read:
 - o (8) ASME A17.3 requirement 2.7.6 Hoistway Emergency Door Contacts is not adopted.
 - o (9) ASME A17.3 requirement 3.3.5 Protection of Platforms Against Fire is not adopted.
 - o (10) ASME A17.3 requirement 3.10.7 Operating of Driving Machine with Hoistway Door Unlocked or Hoistway or Car Door Not in the Closed Position is not adopted.
 - o (11) ASME A17.3 requirement 3.10.12 System to Monitor and Prevent Automatic Operation of the Elevator with Faulty Door Contact Circuits is not adopted.
 - o (12) ASME A17.3 requirement 3.11.3 Firefighter's Service is not adopted.
 - o (13) ASME A17.3 requirement 3.9.5 Piston Connections is not adopted.
 - o (14) ASME A17.3 Adjacent Floor Surfaces requirement 5.5.3 is not adopted.
- WAC 296-96-01010 What are the installation permit fees for conveyances, material lifts, and hoists and how are they calculated?, was amended to further clarify the fees associated with the total cost of installation and alteration. The permit fee associated with the cost of alterations in excess of \$15,000 was moved from repealed WAC 296-96-01012 and added to the fee schedule identified in WAC 296-96-01010. The title of the fee table was amended to read: Total Cost of Installation or Alteration.
- WAC 296-96-05010 What are the department's rules on material lifts?, was amended by including the word "standard" for clarification purposes. The following language was added in subsection (2) of this section to read: WAC 296-96-05010 through 296-96-05290 establishes requirements for the construction, installation, and operation of standard material lifts.
- WAC 296-96-05240 What are the minimum maintenance requirements for lifts?, was amended to reference the ASME code, since the language was approved by the

technical advisory committee and ESAC, but was inadvertently omitted. Subsection (1) was amended to read: Maintenance, examinations, and safety tests are to be performed and documented to the applicable sections of WAC 296-96-23605 and ASME A17.1/CSA B44, parts 8.6 and 8.11.

- WAC 296-96-23000 Compliance time frames, was amended to remove the compliance time frames for some ASME A17.3 requirements, since changes were made in WAC 296-96-00675 to exclude some of the ASME A17.3 requirements from adoption.

A final cost-benefit analysis is available by contacting Alicia Curry, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov, web site <http://www.lni.wa.gov>.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 133, Amended 100, Repealed 316.

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 133, Amended 100, Repealed 316.

Date Adopted: August 31, 2018.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-00600 (~~What rules apply to your conveyance?~~) **Application of adopted standards and rules.** (~~Elevators and other conveyances must comply with the rules adopted by the department that were in effect at the time the conveyance was permitted, regardless of whether the rule(s) has been repealed, unless any new rule specifically states that it applies to all conveyances, regardless of when the conveyance was permitted.~~) Conveyances are required to comply with rules and standards that:

(1) Were in effect at the time of the original installation;

or

(2) Were in effect at the time of any alteration;

(3) Apply to new and existing elevators (see ASME A17.1/CSA B44 1.1.3); and

(4) ASME A17.3, Safety Code for Existing Elevators and Escalators and chapter 296-96 WAC, Part D.

Copies of previous rules adopted by the department are available upon request.

~~(Please note, if the conveyance is altered the components associated with the alteration must comply with all of~~

the applicable rules adopted by the department in effect at the time the conveyance alteration was permitted.) If the department determines that a conveyance was installed or altered without a permit and inspection, the installation or alteration

will be required to comply with the applicable rules and standards adopted by the department at the time the noncompliant installation or alteration was identified.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-00650 (~~(Which National Elevator Codes and Supplements has the department adopted?)~~) Adopted standards.

((NATIONAL)) ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	((NATIONAL)) CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Elevators, Dumbwaiters, Escalators	American Standard Safety Code (ASA) A17.1. ((1962)) 1960	11/1/1963	12/29/1967	Adopted Standard

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Moving Walks	American Standard Safety ((Association)) Code (ASA) A17.1.13, 1962	11/1/1963	12/29/1967	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	U.S.A. Standards ((USAS)) USAS ((A17.1, 1965;)) A17.1-1965 Supplements ((A17.1a, 1967; A17.1b, 1968; A17.1c, 1969;)) A17.1a-1967 A17.1b-1968 A17.1c-1969	12/30/1967	2/24/1972	Adopted Standard USAS 1965 includes revision and consolidation of ((A17.1-1, 1960, A17.1a, 1963, and A17.1-13, 1962)) A17.1-1960, A17.1a-1963, & A17.1.13-1962. Adopted code and supplements, excluding Appendix E ((and)) & ANSI ((17.1d, 1970)) A17.1-1970.
Elevators, Dumbwaiters, Escalators, and Moving Walks	American National Standards Institute ((ANSI A17.1, 1971)) A17.1-1971	2/25/1972	6/30/1982	Adopted Standard as amended and revised through 1971.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI ((A17.1, 1971; A17.1a, 1972)) A17.1-1971; A17.1a-1972	2/25/1972	6/30/1982	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI ((A17.1, 1981)) A17.1-1981	7/1/1982	1/9/1986	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI ((A17.1a, 1982)) A17.1a-1982	3/1/1984	1/9/1986	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI ((A17.1b, 1983)) A17.1b-1983	12/1/1984	1/9/1986	Adopted Supplement, except portable escalators covered by Part VIII ((of A17.1b, 1983)) A17.1b-1983.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI ((A17.1, 1984)) A17.1-1984	1/10/1986	12/31/1988	Adopted Standard Except Part XIX. After 11/1/1988 Part II, Rule 211.3b was replaced by WAC 296-81-275.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI ((A17.1a, 1985)) A17.1a-1985	1/10/1986	12/31/1988	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI ((A17.1b, 1985; A17.1c, 1986; A17.1d, 1986; and A17.1e, 1987)) A17.1b-1985 A17.1c-1986 A17.1d-1986 A17.1e-1987	12/6/1987	12/31/1988	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI ((A17.1, 1987)) A17.1-1987	1/1/1989	12/31/1992	Adopted Standard Except Part XIX and Part II, Rule 211.3b. WAC 296-81-275 replaced Part II, Rule 211.3b.

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
<u>TYPE OF CONVEYANCE</u>	<u>CODE AND SUPPLEMENTS</u>	<u>DATE INSTALLED</u>		<u>COMMENTS</u>
		<u>FROM</u>	<u>TO</u>	
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME ((A17.1, 1990)) <u>A17.1-1990</u>	1/1/1993	2/28/1995	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME ((A17.1, 1993)) <u>A17.1-1993</u>	3/1/1995	6/30/1998	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME ((A17.1, 1996)) <u>A17.1-1996</u>	6/30/1998	6/30/2004	Adopted Standard Except Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME ((A17.1, 2000; A17.1a, 2002; A17.1b, 2003)) <u>A17.1-2000</u> <u>A17.1a-2002</u> <u>A17.1b-2003</u>	7/1/2004	1/1/2008	Adopted Standards and Addenda Except Rules 2.4.12.2, 8.6.5.8 and Sections 5.4, 7.4, 7.5, 7.6, 7.9, 7.10, 8.10.1.1.3 and 8.11.1.1.
Safety Standards for Platform Lifts and Stairway Chairlifts	ASME ((A18.1, 1999; A18.1a, 2001; A18.1b, 2001)) <u>A18.1-1999</u> <u>A18.1a-2001</u> <u>A18.1b-2001</u>	7/1/2004	1/1/2008	Adopted Standards and Addenda.
Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, Special Purpose	ASME A17.1-2004((§)) A17.1a-2005	1/1/2008	1/1/2014	Adopted Standards and Addenda Except Rules 2.4.7.2, marked car top clearance space, 8.6.5.8, Maintenance of safety bulkhead, 5.4, Private residence incline elevators, 7.4 & 7.5 & 7.9 & 7.10 Material lifts, 8.10.1.1.3 and 8.11.1.1, QEI-1 inspector.
Safety Code for Platform Lifts and Stairway Chairlifts	ASME A18.1-2005	1/1/2008	1/1/2014	
Safety Code for Belt Manlifts	ASME A90.1-2003	1/1/2008	1/1/2014	
Safety Code for Personnel Hoists, Retroactive	ANSI A10.4-2004	1/1/2008	1/1/2014	
Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, Special Purpose	ASME A17.1-2010	1/1/2014	((Current)) <u>8/31/2018</u>	
Standard for Elevator Suspension, Compensation, and Governor Systems	ASME A17.6-2010	1/1/2014	Current	
Safety Code for Platform Lifts and Stairway Chairlifts	ASME A18.1-2011	1/1/2014	((Current)) <u>8/31/2018</u>	
Safety Code for Belt Manlifts ((Safety))	ASME A90.1-2009	1/1/2014	((Current)) <u>8/31/2018</u>	
Safety Code for Personnel Hoists	ANSI A10.4-2007	1/1/2014	((Current)) <u>8/31/2018</u>	
<u>Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, and Special Purpose</u>	<u>ASME A17.1-2016/CSA B44-16</u>	<u>9/1/2018</u>	<u>Current</u>	
<u>Guide for Inspection of Elevators, Escalators, and Moving Walks</u>	<u>ASME A17.2-2017</u>	<u>9/1/2018</u>	<u>Current</u>	
<u>Safety Code for Existing Elevators and Escalators</u>	<u>ASME A17.3-2015</u>	<u>9/1/2018</u>	<u>Current</u>	
<u>Safety Standards for Platform Lifts and Stairway Chair Lifts</u>	<u>ASME A18.1-2017</u>	<u>9/1/2018</u>	<u>Current</u>	
<u>Safety Code for Belt Manlifts</u>	<u>ASME A90.1-2015</u>	<u>9/1/2018</u>	<u>Current</u>	
<u>Safety Code for Personnel Hoists</u>	<u>ASSE/ANSI A10.4-2016</u>	<u>9/1/2018</u>	<u>Current</u>	
<u>Safety Code for Material Hoists</u>	<u>ASSE/ANSI A10.5-2013</u>	<u>9/1/2018</u>	<u>Current</u>	

Note: Copies of codes and supplements can be obtained from the following: The American Society of Mechanical Engineers (ASME), Order Department((,-22 Law Drive, Box 2900, Fairfield)) 150 Clove Road, 6th Floor, Little Falls, New Jersey((-07007-2900)) 07424-2138 or by visiting www.asme.org. The American Society of Safety Engineers (ASSE) 1800 East Oakton Street, Des Plaines, IL 60018-2187 or by visiting www.asse.org.

Comments: ((National)) Codes adopted by this chapter will be identified with the applicable ASME/ANSI code reference number contained within the rules or as excluded or amended ((below)) in WAC 296-96-00675.

~~((1) Exclude all references to QEI certification in ASME A17.1 from code adoption.~~

~~(2) Exclude all references and sections to Aramid fiber ropes in ASME A17.1 and A17.6 from code adoption.~~

~~(3) ASME A17.1, SECTION 1.2 PURPOSE AND EXCEPTIONS amended as follows:~~

~~The purpose of this code is to provide for the safety of life and limb, and to promote the public welfare. Compliance with this code shall be achieved by:~~

~~(a) Conformance with the requirements in ASME A17.1/CSA B44 and chapter 296-96 WAC. Additions or modifications to ASME A17.1/CSA B44 and/or chapter 296-96 WAC shall require approval from the department; or~~

~~(b) Conformance with a combination of the requirements in ASME A17.1/CSA B44, chapter 296-96 WAC, and ASME A17.7/CSA B44.7 with the following ASME A17.7 inclusions:~~

~~(i) All system or component certifications performed by an accredited elevator/escalator certification organization (AECO) under ASME A17.7/CSA B44.7, shall be approved by the department before any such system or component is allowed to be permitted or installed in the state of Washington. The applicant must submit all code documentation required by ASME A17.7 Section 2.10 and any other documentation as may be requested.~~

~~(ii) Sections of chapter 296-96 WAC that have taken exception to, made additions to, or modifications to ASME A17.1/CSA B44, such exceptions, additions and modifications shall supersede corresponding requirements in ASME A17.7/CSA B44.7.~~

~~(iii) The department has the final authority regarding acceptance of any item in ASME A17.7. The department may remove approval if a design has changed or unforeseen or undisclosed information is obtained.~~

~~(iv) The department will post the specific ASME A17.7 AECO certificate including exceptions agreed upon. At that time the certificate and exceptions become part of the adopted rule in the state of Washington and not subject to a variance process. The installer shall post the certificate and exceptions including all required information on each conveyance installed utilizing the ASME A17.7 method.~~

~~(v) The department may charge an additional fee for each item in review based upon the variance fee table.~~

~~(4) MARINE ELEVATOR SECTION 5.8~~

~~This chapter only applies to elevators installed on board a marine vessel flying the Washington state flag and under one hundred gross metric tons.~~

~~(5) Exclude ASME A17.1-2.4.7.2 reference for clearance reduction.~~

~~(6) Exclude ASME A17.1-5.4 private residence in-line elevators and ASME A17.1-7.4, 7.5, 7.6, 7.9, and 7.10 material lifts and their corresponding 8.10.1.1.3.~~

~~(7) Exclude ASME A17.1-2.14.1.5.2 on elevators in partially enclosed hoistways. A top emergency exit shall be required.~~

NEW SECTION

WAC 296-96-00675 Amendments to adopted standards. (1) Exclude all references to QEI certification in ASME A17.1/CSA B44 from code adoption.

(2) ASME A17.1/CSA B44, Section 1.2 Purpose and Exceptions amended as follows: The purpose of this code is to provide for the safety of life and limb, and to promote the public welfare. Compliance with these rules shall be achieved by:

(a) Conformance with the requirements in ASME A17.1/CSA B44 as amended by this chapter; or

(b) Conformance with a combination of requirements in ASME A17.1/CSA B44, this chapter, and ASME A17.7/CSA B44.7 with the following ASME A17.7/CSA B44.7 inclusions:

(i) All system or component certifications performed by an Accredited Elevator/Escalator Certification Organization (AECO) under ASME A17.7/CSA B44.7 shall be approved by the department before any such system or component is allowed to be permitted or installed in the state of Washington.

(ii) The applicant shall provide the certificate of certification for the device or system evaluated by an AECO.

(iii) The department has the final authority regarding acceptance of any item in ASME A17.7/CSA B44.7. The department may remove approval if a design has changed or unforeseen or undisclosed information is obtained.

(iv) The department will post the specific ASME A17.7/CSA B44.7 AECO certificate including exceptions agreed upon. At that time the certificate and exceptions become part of the adopted rule in the state of Washington and not subject to a variance process. The installer shall include the certificate and exceptions and all required information on each conveyance installed utilizing the ASME A17.7/CSA B44.7 method in the Maintenance Control Program documentation.

(v) The department may charge an additional fee for each item in review based upon the variance fee table.

(c) Additions or modifications to adopted standards and/or this chapter shall require approval from the department.

(3) ASME A17.1/CSA B44, Section 5.8, Marine Elevators. This section only applies to elevators installed on board a marine vessel flying the Washington state flag and under one hundred gross metric tons.

(4) ASME A17.1/CSA B44, Section 5.11, Wind Turbine Elevator is not adopted.

(5) Periodic tests and inspections. Pursuant to Req. 8.6.1.7 and 8.11.1.3, the department adopts ASME A17.1/CSA B44, Appendix N for the frequency of periodic tests. Pursuant to RCW 70.87.120 (2)(a) periodic inspections shall be performed annually.

(6) ASME A17.1/CSA B44 requirement 8.11.1.1.2 is not adopted. The department shall be permitted to witness periodic tests when the department deems necessary.

(7) ASME A17.1-2016/CSA B44-16, 8.6.11.1 Firefighters' Emergency Operation is amended as follows: All elevators provided with firefighters' emergency operation shall be subjected quarterly, by authorized personnel, to Phase I recall by use of the keyed switch, and a minimum of one-floor operation on Phase II. Deficiencies shall be corrected. A record of findings shall be available to elevator personnel and the authority having jurisdiction. At least once each year, the fire alarm initiating devices associated with elevator recall and shunt trip initiating devices shall be tested to determine if they are still properly interfaced with the elevator control.

(8) ASME A17.3 requirement 2.7.6 Hoistway Emergency Door Contacts is not adopted.

(9) ASME A17.3 requirement 3.3.5 Protection of Platforms Against Fire is not adopted.

(10) ASME A17.3 requirement 3.10.7 Operating of Driving Machine with Hoistway Door Unlocked or Hoistway or Car Door Not in the Closed Position is not adopted.

(11) ASME A17.3 requirement 3.10.12 System to Monitor and Prevent Automatic Operation of the Elevator with Faulty Door Contact Circuits is not adopted.

(12) ASME A17.3 requirement 3.11.3 Firefighter's Service is not adopted.

(13) ASME A17.3 requirement 3.9.5 Piston Connections is not adopted.

(14) ASME A17.3 requirement 5.5.3 Adjacent Floor Surfaces is not adopted.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-00700 Chapter definitions. The following definitions apply to this chapter (see RCW 70.87.010 and ASME A17.1/CSA B44 for additional definitions necessary for use with this chapter):

"ANSI" means the American National Standard Institute.

"ASA" means the American Safety Association.

"ASME" means the American Society of Mechanical Engineers.

"Acceptable proof" refers to the documentation that ~~((must))~~ is required to be provided to the department during the elevator contractor and mechanic license application and renewal process. ~~((Acceptable proof may include department approved forms documenting years of experience, affidavits, letters from previous employers, declarations of experience, education credits, copies of contractor registration information, etc. Additional documentation may be requested by the department to verify the information provided on the application.))~~

"Alteration" means an intended change to the original design of elevator equipment.

"Code" refers to nationally ~~((accepted))~~ recognized codes (i.e., ASME, ANSI, ~~((ASA, and NEC))~~ ICC, and NFPA) and the Washington Administrative Code.

~~((~~ "Control room" refers to an enclosed control space outside the hoistway of the elevator or dumbwaiter, intended

for full bodily entry that contains the motor and motion controller. The room could also contain electrical and/or mechanical equipment used directly in connection with the elevator or dumbwaiter, but not the electric driving machine.

~~"Control space" refers to a space outside the hoistway of the elevator, intended to be accessed without full bodily entry, which contains the motor and motion controller. This space could also contain electrical and/or mechanical equipment used directly in connection with the elevator but not the electric driving machine or the hydraulic machine. A control space* is limited to elevators, dumbwaiters, special purpose, and material lifts. The space shall not share any location, area or room which is also accessible to the general public.~~

~~*Note: A control space must be preapproved and is limited on a case-by-case basis and should not be considered a normal installation process.))~~

"Decommissioning conveyance" means a group of tasks that ~~((must))~~ are to be accomplished in order to place the conveyance in a long-term out-of-service status.

~~((~~ "Elevator machine room" means an enclosed machinery room outside the hoistway, intended for full bodily entry that contains the electric driving machine or the hydraulic machine and the motor controller. The room could also contain electrical and/or mechanical equipment used directly in connection with the elevator.

~~"Elevator machinery space" means a space inside or outside the hoistway, intended to be accessed with or without full bodily entry that contains elevator mechanical equipment and could also contain electrical equipment used directly in connection with the elevator. This space could also contain the electric driving machine.))~~

"Examination" means a routine process or procedural task(s) or test(s) that ensures a conveyance and its systems and subsystems remain properly maintained and safe to operate.

"Final judgment" means any money that is owed the department as the result of an individual's or firm's unsuccessful appeal ~~((of))~~ or failure to appeal a civil penalty. ~~((Final judgment also includes any penalties assessed against an individual or firm owed the department as a result of an unappealed civil penalty or any outstanding fees due under chapter 70.87 RCW and this chapter.))~~

"Form, fit, and function" means specific characteristics of a device (such as a component or assembly) that enable direct substitution of the device for a similar device without adversely affecting the operation or safety of the overall equipment. Factors to be considered with respect to form, fit, and function include, but are not always limited to: The ability of the device to be connected in place of the original; having similar size, shape and appearance; ability to perform the same function as the original device; and having ratings equal to or greater than the original device.

"General direction - Installation and alteration work" means the necessary education, assistance, and supervision provided by a licensed elevator mechanic (in the appropriate license category) who is on the same job site as the helper/apprentice ~~((at least seventy five percent of each working day. The ratio of helper to mechanic shall be one to one)).~~

"General direction - Maintenance work" means the necessary education, assistance, and supervision provided by a licensed elevator mechanic (in the appropriate license category) to ensure that the maintenance work is performed safely and to code.

"Layout drawings" or "plans" or "shop drawings" means (~~(engineering)~~) elevation and plan view drawings that show required clearances and dimensions of elevator equipment in relation to building structure and (~~(shall include a machine room plan, hoistway plan, hoistway elevation, detail drawings, and general elevator data)~~) other elevator equipment.

"Layout drawings, engineering" means structural drawings verified and stamped by a professional engineer registered in the state of Washington.

"Lockout/tagout" means the placement of a lockout device on an energy isolating device (~~(, in accordance with an established procedure, ensuring that the energy isolating device and the equipment being controlled cannot be operated until the lockout device is removed)~~).

"Primary point of contact" is the designated individual employed by a licensed elevator contractor.

"Private residence elevator" (~~(residential elevator)~~) means a power passenger elevator which (~~(is limited in size, capacity, rise and speed and)~~) is installed in a private residence or multiple dwelling as a means of access to a single private residence (~~(provided the elevators are so installed that they are not accessible to the general public or to other occupants in the building)~~).

"Red tag" or "red tag status" means an elevator or other conveyance that has been removed from service and operation because of noncompliance with chapter 70.87 RCW and this chapter or at the request of the owner.

"Repair" means a procedure used to restore a device or system to its original design parameters without supplying a complete new component or device.

"Replacement" means the complete replacement of a device or component that has the same "form, fit, and function" as the original but is not intended as a change in design.

"RCW" means the Revised Code of Washington.

(~~"Tagout" means the placement of a tagout device on an energy isolating device, in accordance with an established procedure, to indicate that the energy isolating device and the equipment being controlled may not be operated until the tagout device is removed by the individual who established the tag or by a person designated by the chief elevator inspector.~~) **"Standard application material lift"** means a lift used strictly for freight transport and is in compliance with this chapter, Part C1. (Note: These are not to be confused with Type A and Type B material lifts covered in ASME A17.1/CSA B44, Part 7).

"Traction elevator" means an elevator in which the friction between the hoist ropes and the drive machine sheave is used to move the elevator car.

"USAS" means the U.S.A. Standards.

"WAC" means the Washington Administrative Code.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00800 Advisory committee on conveyances. (1) The purpose of the advisory committee is to advise the department on the adoption of regulations that apply to conveyances; methods of enforcing and administering the elevator law, chapter 70.87 RCW; and matters of concern to the conveyance industry and to the individual installers, owners and users of conveyances.

(2) The advisory committee consists of seven members appointed by the director or his or her authorized representative.

(3) The committee members shall serve four years. However, if a member is unable to fulfill his or her obligations, a new member may be appointed to fill the remainder of the unexpired term.

(4) The committee shall meet on the third Tuesday of February, May, August, and November of each year, and at other times at the discretion of the chief of the elevator section.

(5) The chief of the elevator section shall be the secretary for the advisory committee.

(6) An advisory committee member may appoint an alternate to attend meetings in case of conflict or illness.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00805 Appeal rights and hearings. (1) Chapter 70.87 RCW provides the authority for the duties and responsibilities of the department. Except as provided in chapter 70.87 RCW and this chapter, all appeals and hearings will be conducted according to chapter 34.05 RCW, the Administrative Procedure Act and chapter 10-08 WAC, Model Rules of Procedure.

(2) A person who contests a notice of violation or infraction issued by the department may request a hearing. The request for a hearing (~~(must)~~) shall be:

(a) In writing;

(b) Accompanied by a certified or cashier's check, payable to the department, for (~~(two hundred dollars)~~) the amount specified in the RCW; and

(c) Postmarked or received by the department within (~~(fifteen)~~) 15 days after the person receives the department's violation notice.

(3) In all appeals of chapter 70.87 RCW and this chapter the appellant has the burden of proof by a preponderance of the evidence.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-01000 (~~(What is the permit process for conveyances?)~~) Permits for new construction and alterations. (1) Prior to construction, alteration, or relocation of any conveyance, the licensed elevator contractor shall:

(a) Submit an installation application to the department. See WAC 296-96-01010 through 296-96-01025.

(b) Submit plans to the department for approval. See WAC 296-96-01030.

EXCEPTION: Most alterations will not require plans.

(c) Post an approved installation or alteration permit along with any approved plans issued by the department on the job site.

(i) The annual operating certificate is considered suspended once alteration work begins.

(ii) The certificate shall not be reinstated until the alteration work is approved by an inspector employed by the department.

~~((d))~~ (2) Prior to placing a conveyance in service the licensed elevator contractor shall obtain and pass an inspection (prior to placing the conveyance in service. See WAC 296-96-01035.

~~(e) Abstain from working without a permit or releasing the conveyance for use without the department's written permission)) or receive written permission from the department.~~

(3) Failure to comply with subsections (1) and (2) of this section is a violation of this chapter and may result in civil penalties (WAC 296-96-01070 (1)(a) through (d)).

~~((2))~~ (4) The owner ~~((must))~~ shall obtain and renew an annual operating certificate for each conveyance that they own, except for residential conveyances. See WAC 296-96-01065.

~~((3))~~ (5) After initial purchase and inspection, private residence conveyance(s) do not require an annual operating certificate. However, annual inspections may be conducted upon request. See WAC 296-96-01045 for the permit process.

(6) For purposes of this rule, permits are not required for "repairs" (see ASME A17.1/CSA B44, Section 8.6.2). Permits are not required when replacing devices that are identical to the original device or have the same "form, fit, and function" (see WAC 296-96-00700)(see also ASME A17.1/CSA B44, Section 8.6.3).

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

WAC 296-96-01005 ~~((When do I need and what are the steps in obtaining a permit?))~~ **Obtaining permits.** (1) See WAC 296-96-01000 for the permit process.

(2) Construction and alteration permits are valid for one year from the date of issue. However, permits may be renewed if ~~((you))~~:

(a) ~~((Apply))~~ Application for a renewal permit is submitted before ((your)) the current permit expires;

(b) The department approves ~~((your))~~ the request for a renewal permit; and

(c) ~~((You pay))~~ A renewal fee of \$58.30 ((renewal fee)) is paid to the department for each permit ((you renew)) renewed;

(3) If ~~((your))~~ the permit has expired ((you must)) the applicant shall reapply for a new permit.

(4) See WAC 296-96-01006 for work requiring a permit.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-01006 ~~((What type of conveyance work requires permitting and inspection?))~~ **Work requiring permits.** (1) All installations and relocation of conveyances that require((s)) permitting and inspection((All conveyance

~~work must))~~ shall be performed by ~~((an))~~ elevator mechanics licensed to perform work in the appropriate category. (See WAC 296-96-00910.)

(2) ~~((All alterations require permitting, inspection, and must include but are not limited to:~~

~~((a))~~ Items identified in ASME ~~((A17.1.~~

~~((b) Any conveyance work that requires the conveyance to be tested prior to being returned to service, including:~~

~~((i) The replacement or repair of any parts, the installation of which would require recalibration or testing (e.g., brakes, hydraulic valves and piping, safeties, door reopening devices, governors, communication systems, cab interiors, car/hall buttons, etc.); or~~

~~((ii) Work performed on components or equipment affecting or necessary for fire and life safety (e.g., cab interiors, systems associated with fire recall, etc.))~~ A17.1/CSA B44, Section 8.7 as alterations shall require a permit and inspection.

(3) Permits and fees are not required for normal function and necessary maintenance ~~((and))~~ or repair ~~((performed with parts of equivalent materials, strength, and design))~~ or for any conveyance ~~((exempted by))~~ exempt under RCW 70.87.200.

Contact the department if you have any questions or need assistance determining if a permit and inspection are required.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-01008 Decommissioning a conveyance.

A licensed elevator mechanic working for a licensed elevator company ~~((must))~~ shall decommission the conveyance according to ASME A17.1/CSA B44. If the elevator is the only one in the building and the owner/agent wants the conveyance decommissioned the owner/agent ~~((must))~~ shall obtain a letter of approval from the local building official.

Note: Decommissioning is not ~~((dismantling or))~~ removing the conveyance.

(1) ~~((A conveyance is considered to be in decommissioned status when:~~

~~((a) The power feed lines from the disconnect switch to the controller have been removed; and~~

~~((b) The traction elevator, dumbwaiter, or material lift suspension ropes have been removed, and if applicable, the counterweight rests at the bottom of the hoistway. The hoistway doors, except for the bottom landing, have been permanently barricaded or sealed in the closed position on the hoistway side; and~~

~~((c) A hydraulic elevator, dumbwaiter, or material lift car rests at the bottom of the hoistway; pressure piping has been disassembled and a section removed from the premises; hoistway doors except for the bottom landing have been permanently barricaded or sealed in the closed position on the hoistway side; suspension ropes have been removed and counterweights, if provided, landed at the bottom of the hoistway; and~~

~~((d) The escalator or moving walk entrances have been permanently barricaded.~~

(2)) After decommissioning work is complete:

(a) The elevator mechanic (~~(must)~~) shall contact the department to schedule an inspection;

(b) The department will perform an inspection and send the results and applicable fee to the conveyance owner;

(c) Upon inspection and approval by the department, annual inspections will no longer be required, until such time that the conveyance is returned to service.

~~((3) If returning the conveyance to service and prior to operating the conveyance,))~~ (2) Prior to returning a decommissioned conveyance to service an acceptance inspection and temporary operating permit (~~(must)~~) shall be obtained. The conveyance acceptance inspection shall be performed to the code in effect from the date of its original installation (~~(of)~~) and/or alteration.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-01009 (~~Who can purchase~~) Purchasing a permit(2). The department may only issue a permit for conveyance work to a licensed elevator contractor. Permits are only required for alterations, relocations and installations.

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

WAC 296-96-01010 (~~What are the installation permit fees for conveyances, material lifts, and hoists and how are they calculated?~~) Installation and alteration permit fees. (~~Installation~~) Permit fees are based on the total cost of the conveyance or alteration and the labor to install or alter the conveyance. The following permit fees apply to the construction, alteration, or relocation of all conveyances (~~and material lifts~~) except personnel and material hoists (see WAC 296-96-01025):

<u>TOTAL COST OF ((CONVEYANCE)) INSTAL-</u> <u>LATION OR ALTERATION</u>	FEE
\$0 to and including \$1,000	\$64.30
\$1,001 to and including \$5,000	\$96.50
\$5,001 to and including \$7,000	\$161.20
\$7,001 to and including \$10,000	\$193.60
\$10,001 to and including \$15,000	\$258.30
OVER \$15,000 <u>for installation only</u> *	\$361.60 plus
OVER \$15,000 <u>for alteration only</u> *	\$258.30
*Each additional \$1,000 or fraction thereof	\$8.90

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

WAC 296-96-01025 (~~What is the~~) Permit fees for personnel and material hoists(2). The fee for each personnel hoist or material hoist installation is \$258.30
See WAC 296-96-01035(2) for requirements for jumps.

Note: An operating certificate is also required for these types of conveyances.

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

WAC 296-96-01027 (~~Are initial installation permit fees refundable?~~) Permit fee refunds. (~~Your~~) The initial installation permit fees are refundable minus a processing fee if the installation work has not been performed (~~(, minus a processing fee, unless your permits have expired)~~). No refunds will be issued for expired permits. All requests for refunds (~~(must)~~) shall be submitted in writing to the elevator section and (~~(must)~~) shall identify the specific permits and the reasons for which the refunds are requested.

The processing fee for each refund is \$38.50

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

WAC 296-96-01030 (~~What is the process for installation and alteration~~) Plan approval(2). Prior to the start of construction and the issuance of a permit, the applicant (~~(must)~~) shall submit to the department for approval (~~(two copies of)~~) plans for new installations or major alterations. To be approved, the plan (~~(must)~~) shall comply with the latest adopted (~~(edition of the American Society of Mechanical Engineers (ASME), the National Electrical Code (NEC))~~) applicable standard and applicable Washington Administrative Code(~~(s)~~) (WAC). In addition, the plans (~~(must)~~) shall include all information necessary (~~(in determining)~~) to determine whether each installation/alteration complies with all applicable codes. The permit holder (~~(must)~~) shall keep a copy of the approved plan on the job site until the department has witnessed all acceptance tests. Any alterations to the approved plan (~~(must)~~) shall be submitted to the department for approval before a final inspection will be conducted. The nonrefundable fees for reviewing (~~(your)~~) the plans are(:

For each installation/major alteration \$32.00
If more than two sets of plans are submitted, the fee for each additional set \$12.60))
\$32.00 for each installation/major alteration.

Exception: Residential incline chair lifts will not require plan review. Equipment shall be listed and labeled by a product testing laboratory which is accredited by the department and plans supplied by the manufacturer shall be on-site. If the equipment is not listed and labeled as per RCW 19.28.010 it shall be field evaluated or replaced with equipment that is listed and labeled by a product testing laboratory which is accredited by the department.

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

WAC 296-96-01035 (~~Are there~~) Inspection fees(2). (~~Yes-~~) The initial (~~(inspection(s) of a conveyance or for the initial)~~) inspection of construction, alteration or relocation of a conveyance is included with (~~(your)~~) the permit fee. Once the department has approved the initial installation of the conveyance (~~(you will be issued)~~) a temporary 30-day operating certificate (~~(that is valid for 30 days)~~) will be issued. Prior to the expiration of the 30-day temporary operating certificate the application for an annual operating certificate and the appropriate fees (~~(must)~~) shall be paid to

the department. Once the department has received the appropriate fees and application the owner will be issued the first annual operating certificate. The owner or ~~((owners'))~~ owner's representative will receive an invoice from the department for renewal. The owner is required to renew the annual operating certificate yearly.

The following inspections require an additional inspection fee:

(1) **Reinspection.** If a conveyance does not pass an initial inspection and an additional inspection is required, the fee for each reinspection of a conveyance is \$129.00 per conveyance plus \$62.60 per hour for each hour in addition to the first hour.

The department may waive reinspection fees.

(2) **Inspecting increases in the height (jumping) of personnel and material hoists.**

The fee for inspecting an increase in the height (jumping) of each personnel hoist or material hoist is \$129.00 plus \$64.30 per hour for each hour in addition to 2 hours. This fee is for inspections occurring during regular working hours.

The permit holder may be allowed to operate a hoist prior to the jump inspection if:

(a) The electrical limits will not allow the lift to operate above the previously inspected landing~~((:)); and~~

(b) The state elevator inspector is contacted, agrees and can schedule an inspection within 3 days.

(3) **Variance inspections.**

(a) The fee for an on-site variance inspection is \$193.60 per conveyance plus \$64.30 per hour for each hour in addition to 2 hours. This fee is for inspections occurring during regular working hours.

(b) The fee for a variance that does not require an on-site inspection is \$64.30 per conveyance. The individual requesting the variance ~~((must))~~ shall provide the department with pictures, documentation, or other information necessary for the department to review the variance. The department may conduct an on-site variance inspection to verify the information provided or if it determines that an inspection is necessary. If an on-site variance inspection is performed, the fees in (a) of this subsection will apply.

(4) **"Red tag" status fee.** The annual fee for a conveyance in "Red tag" status is \$32.00.

Note: ~~((You must provide))~~ The department shall be provided with written approval from the building official, indicating that the conveyance is not required for building occupancy, when ~~((you apply))~~ applying to have the conveyance placed in voluntary red tag status.

(5) **Decommission inspection.** The fee for performing a decommission inspection is \$64.30. Once the decommission inspection has been performed and approved, the conveyance will no longer require annual inspections until such time that the conveyance is brought back into service. Prior to operating the conveyance, a new inspection and annual operating permit ~~((must))~~ shall be obtained.

(6) **Voluntary inspections by request.** The owner or potential purchaser of a building within the department's jurisdiction may request a voluntary inspection of a conveyance. The fee for this inspection will be \$129.00 per conveyance and \$64.30 per hour for each hour in addition to 2 hours plus the standard per diem and mileage allowance granted to

department inspectors. The owner/potential purchaser requesting the voluntary inspection will not be subject to any penalties based on the inspector's findings.

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

~~WAC 296-96-01040 ((What is the fee for testing and inspecting regular elevators used as temporary elevators to provide transportation for construction personnel, tools, and materials only?))~~ **Construction-use inspection fee.**

(1) The fee for the inspecting and testing of ~~((regular elevators used as temporary))~~ elevators used for construction is \$103.10, in addition to any other fees required in this chapter. This fee purchases a 30-day temporary use permit that may be renewed at the department's discretion.

(2) When this temporary use permit is purchased, a notice declaring that the equipment has not received final approval from the department ~~((must))~~ shall be conspicuously posted in the elevator.

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

~~WAC 296-96-01045 ((What are the inspection requirements and fees for conveyances in private residences?))~~ **Residential elevator inspection and fees.**

(1) Chapter 70.87 RCW requires the department to inspect all new, altered or relocated conveyances operated exclusively for single-family use in private residences. Prior to installation, a licensed elevator contractor ~~((must))~~ shall complete a permit application as described in WAC 296-96-01005 and pay the appropriate fee listed in WAC 296-96-01010.

(2) Chapter 70.87 RCW allows the department to inspect conveyances operated exclusively for single-family use in private residences when the department is investigating an accident or an alleged or apparent violation of the statute or these rules.

(3) No annual inspection and operating certificate is required for a private residence conveyance operated exclusively for single-family use unless the owner requests it. When an owner requests an inspection and an annual operating certificate, the following fee ~~((must))~~ shall be paid prior to an inspection:

TYPE OF CONVEYANCE	FEE
Each inclined stairway chair lift in private residence	\$30.00
Each inclined wheel chair lift in a private residence	\$30.00
Each vertical wheel chair lift in a private residence	\$37.80
Each dumbwaiter in a private residence	\$30.00
Each inclined elevator at a private residence ..	\$107.30
Each private residence elevator	\$69.10
Duplication of a lost, damaged or stolen operating permit	\$12.60

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

~~WAC 296-96-01055 ((Are technical services available and what is the fee?))~~ **Technical services and consultations.** ((You)) A person, firm, corporation, or governmental agency may request elevator field technical services from the department by paying a fee of \$77.30 per hour (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. These field technical services may include code evaluation, code consultation, plan examination, code interpretation and clarification of technical data relating to the application of the department's conveyance rules. Field technical services do not include inspections.

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

~~WAC 296-96-01057 ((Does the department charge a fee to perform investigations and what is the fee?))~~ **Accident investigations.** ((An elevator inspector)) The department shall investigate an injury-related accident reported by the owner or owner's duly authorized agent. The department may charge at a rate of \$77.30 per hour (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. ((These services shall include accident investigation relating to any and all accidents. This fee would include an inspection as required during the accident investigation.))

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

~~WAC 296-96-01060 ((Can I request an after-hours inspection and what is the fee?))~~ **Inspections after normal business hours.** ((You may request)) An inspection outside of normal business hours((, which are)) and business days (i.e., Monday through Friday excluding holidays; 7:00 a.m. to 5:00 p.m.((+if))) may be requested under the following conditions:

- (1) An inspector is available; and
- (2) The inspection is authorized by the department.
- (3) The minimum fee for an after-hours inspection is \$96.50 and \$96.50 per hour for each hour in addition to the first hour plus the standard per diem and mileage allowance granted to department inspectors.
- (4) This fee is in addition to any other fees required for ((your)) the project.

AMENDATORY SECTION (Amending WSR 14-06-041, filed 2/26/14, effective 4/1/14)

~~WAC 296-96-01065 ((What are the))~~ **Annual operating ((certificate)) permit fees((?)).** An annual operating certificate will be issued to ((you)) the building owner upon payment of the appropriate fee. The owner of record ((will)) shall be invoiced by the department. If a change of ((owner)) ownership has occurred, it is the new owner's responsibility to ensure the department has the corrected information. Below is the fee structure table:

TYPE OF CONVEYANCE	FEE
Each hydraulic elevator	\$129.00
Each roped-hydraulic elevator	\$161.20
plus for each hoistway opening in excess of two	\$12.60
Each cable elevator	\$161.20
plus for each hoistway opening in excess of two	\$12.60
Each cable elevator traveling more than 25 feet without an opening—for each 25 foot traveled	\$12.60
Each limited-use/limited-application (—LULA) elevator	\$129.00
Each escalator	\$107.20
Each dumbwaiter in other than a private residence	\$69.10
Each material lift	\$129.00
Each incline elevator in other than a private residence	\$138.70
Each belt manlift	\$129.00
Each stair lift in other than a private residence	\$69.10
Each wheel chair lift in other than a private residence	\$69.10
Each personnel hoist	\$129.00
Each grain elevator personnel lift	\$107.20
Each material hoist	\$129.00
Each special purpose elevator	\$129.00
Each private residence elevator installed in other than a private residence	\$129.00
Each casket lift	\$107.20
Each sidewalk freight elevator	\$107.20
Each hand-powered manlift or freight elevator	\$72.60
Each boat launching elevator	\$107.20
Each auto parking elevator	\$107.20
Each moving walk	\$107.20
Duplication of a damaged, lost or stolen operating permit	\$12.60

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

~~WAC 296-96-01070 ((What are the civil (monetary) penalties for violating the conveyance permit and operation requirements of chapter 70.87 RCW and this chapter?))~~ **Operating a conveyance without an operating permit.** (1) Any licensee, installer, owner or operator of a conveyance who violates a provision of chapter 70.87 RCW or this chapter shall be subject to the following civil penalties:

- (((a) Operation of a conveyance without a permit or written approval from the department:
 - After 360 days..... \$500.00
 - Each 30 days after 360 days \$500.00
 - Note: Penalties are cumulative
- First violation \$171.20
- Second violation \$342.60
- Each additional violation \$500.00
- (b) Installation of a conveyance without a permit:
 - After 90 days..... \$114.10
 - After 180 days..... \$285.40
 - After 270 days..... \$457.00
 - After 360 days..... \$500.00
 - Each 30 days after 360 days \$500.00
 - Note: Penalties are cumulative
- First violation \$171.20
- Second violation \$342.60
- Each additional violation \$500.00
- (c) Relocation of a conveyance without a permit:
 - After 90 days..... \$114.10
 - After 180 days..... \$285.40
 - After 270 days..... \$457.00
 - After 360 days..... \$500.00
 - Each 30 days after 360 days \$500.00
 - Note: Penalties are cumulative
- First violation \$171.20
- Second violation \$342.60
- Each additional violation \$500.00
- (d) Alteration of a conveyance without a permit:
 - After 90 days..... \$114.10
 - After 180 days..... \$285.40
 - After 270 days..... \$457.00
- First violation \$171.20
- Second violation \$342.60
- Each additional violation \$500.00
- (e) (i) Operation of a conveyance for which the department has issued a red tag or has revoked or suspended an operating permit or operation of a decommissioned elevator \$500.00
- (ii) Removal of a red tag from a conveyance \$500.00
- (f) Failure to comply with a correction notice:
 - After 90 days..... \$114.10
 - After 180 days..... \$285.40
 - After 270 days..... \$457.00
- (g) Failure to submit official written notification that all corrections have been completed:
 - After 90 days..... \$114.10
 - After 180 days..... \$285.40
 - After 270 days..... \$457.00
 - After 360 days..... \$500.00
 - Each 30 days after 360 days \$500.00
 - Note: Penalties are cumulative
- (h) Failure to notify the department of each accident to a person requiring the services of a physician or resulting in a disability exceeding one day may result in a \$500.00 penalty per day. The conveyance must be removed from service until the department authorizes the operation of the conveyance. This may require an inspection and the applicable fees will be applied. Failure to remove the conveyance from service may result in an additional \$500.00 penalty per day. (i) Falsifying official written documentation submitted to the department. Each day is a separate violation. (\$500.00))

	First violation	Second violation	Each additional violation
(a) Operation of a conveyance without a permit or written approval from the department:	\$171.20	\$342.60	\$500.00
(b) Installation of a conveyance without a permit:	\$171.20	\$342.60	\$500.00
(c) Relocation of a conveyance without a permit:	\$171.20	\$342.60	\$500.00
(d) Alteration of a conveyance without a permit:	\$171.20	\$342.60	\$500.00
(e)(i) Operation of a conveyance for which the department has issued a red tag or has revoked or suspended an operating permit or operation of a decommissioned elevator:	\$500.00		
(ii) Removal of a red tag from a conveyance:	\$500.00		
	After:*		

	90 Days	180 Days	270 Days	360 Days	Each 30 days after 360
(f) Failure to comply with a correction notice:	\$114.10	\$285.40	\$457.00	\$500.00	\$500.00
(g) Failure to submit official written notification that all corrections have been completed:	\$114.10	\$285.40	\$457.00	\$500.00	\$500.00
<u>(h) Failure to notify the department of each accident to a person requiring the services of a physician or resulting in a disability exceeding one day may result in a \$500.00 penalty per day. The conveyance shall be removed from service until the department authorizes the operation of the conveyance. This may require an inspection and the applicable fees will be applied. Failure to remove the conveyance from service may result in an additional \$500.00 penalty per day.</u>					
<u>(i) Falsifying official written documentation submitted to the department. Each day is a separate violation: \$500.00.</u>					

*Note: Penalties are cumulative.

(2) A violation as described in subsection (1)(a), (b), (c), and (d) of this section will be a "second" or "additional" violation only if it occurs within one year of the first violation.

(3) The department ~~((must))~~ shall serve notice by certified mail to an installer, licensee, owner, or operator for a violation of chapter 70.87 RCW, or this chapter.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

~~WAC 296-96-01075 ((How does an owner or licensee receive a variance from the installation and alteration requirements of chapter 70.87 RCW and this chapter?))~~
Requests for variances (exceptions to requirements).

Variances from the installation and alteration requirements of this chapter may be requested. The variance request shall be in writing on a form approved by the department accompanied with the required fee. The individual requesting the variance ~~((must))~~ shall provide the department with pictures, documentation, or other information necessary for the department to review the variance. The application shall indicate an alternate solution that provides the same or greater level of safety as required by the prescriptive requirements of the code or this chapter. The department may conduct an on-site variance inspection to verify the information provided or if it determines that an inspection is necessary. If an on-site variance inspection is performed, the fees in WAC 296-96-01035 will also apply.

PART C - REGULATIONS FOR NEW AND ALTERED ELEVATORS AND LIFTING DEVICES

NOTE: ~~((The following rules set the minimum standard for all new installations and, where applicable, alterations.~~

NOTE: ~~Part C is not intended to replace the current adopted standards outlined in WAC 296-96-00650. In conflicts between Part C and the adopted standards, Part C shall take precedent.)~~ **This part provides requirements for new and altered equipment in lieu of, or in conjunction with, ASME A17.1/CSA B44.**

Section 1

Inspections, Alterations, and Construction-Use Permits

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

~~WAC 296-96-02400 ((When must the department be notified for a new or altered inspection?))~~ **Requests for acceptance inspections.** (1) The person or firm installing, relocating, or altering a conveyance shall notify the department in writing, at least seven days before requesting any inspection of the work, and shall subject the new, moved, or altered portions of the conveyance to the acceptance tests.

(2) The department may grant exceptions to this notice requirement.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

~~WAC 296-96-02405 ((What is the))~~ **Inspection and approval process for alterations((?)).** The following process ~~((must))~~ shall be followed when performing alterations:

(1) Submit an alteration application and obtain an ((alteration)) approved permit from the department prior to performing the alteration. The permit application ~~((must))~~ shall include detailed information on the scope of the alteration.

(2) Post the permit on the job site. Take the conveyance out-of-service and perform the alteration.

(3) If the conveyance requires an inspection prior to being returned to service (as identified on the alteration permit), ~~((you must contact))~~ the department ~~((to schedule an inspection))~~ shall be contacted at least seven days in advance for the purpose of scheduling an inspection and:

(a) A licensed mechanic ~~((must))~~ shall be present ~~((and))~~ during the inspection;

(b) If the conveyance passes the inspection, the conveyance may be placed back into service((-
~~((b))~~);

(c) If the conveyance fails the inspection, the conveyance ((must)) shall remain out-of-service until the corrections are made, a reinspection is scheduled and the conveyance is approved by the department.

(4) If the conveyance is not required to be inspected prior to being returned to service, ((you must)) the contractor shall

contact the department immediately to schedule an inspection within seven days and obtain written permission prior to returning the conveyance to service. A licensed mechanic (~~(must)~~ shall) be present during the scheduled inspection and:

(a) If the conveyance passes the inspection, the conveyance may remain in service.

(b) If the conveyance fails the inspection, the conveyance will be placed out-of-service until the corrections are made, a reinspection is scheduled and the conveyance is approved by the department.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02410 (~~Are there additional work requirements when performing an alteration?~~) Alterations. (For certain types of alterations additional work may be required as part of the alteration and prior to approval of the conveyance. These alterations include, but are not limited to:

(1) Replacements of controllers will require the following:

(a) Firefighter service requirements must be in accordance with the most recent code adopted by the department and include ASME A17.1-8.7.2.27.4(a) when travel is five feet or more above or below the designated landing.

(b) Seismic requirements for derailment and/or seismic switch as required must be met in accordance with the most recent code adopted by the department. In addition, the conveyance must operate according to ASME A17.1 seismic requirements.

(c) Lighting in the machine room and pit must comply with the most recent code adopted by the department.

(d) Electrical outlets in the machine room and pit must be of the ground fault interrupter type.

(2) Replacement of controllers and a car operating panel and/or hall fixtures:

(a) The requirements of subsection (1) of this section must be met.

(b) All panels and fixtures must meet the applicable (e.g., height, sound, Braille, etc.) requirements in accordance with this chapter.

(3) Replacement of door operators and/or door equipment: Any changes to these items require the installation of door restrictors.

(4) Hydraulic piping: Replacement or relocation of hydraulic piping including a control valve will require the installation of a rupture (overspeed) valve. Gaskets and seals are excluded from this requirement.

Note: The department may grant exceptions to the requirements identified in this section:))

(1) Where there is an associated seismic or ADA requirement to the equipment or system being altered, the equipment shall also be brought into compliance with the applicable seismic and/or ADA requirements during the alteration.

(2) Machine room, control room, machinery and control space illumination shall be required to meet the minimum illumination levels as required by the latest adopted code.

(3) Where a new jack assembly or hydraulic pump unit is installed, a seismic (overspeed) valve shall be installed according to ASME A17.1/CSA B44, Section 8.4.11.

(4) When new elevator equipment is installed in a machine or control room, receptacles shall comply with current adopted edition of NFPA 70 (see Art. 620.23).

(5) When new equipment is installed in the elevator pit, illumination levels shall be required to meet the minimum illumination levels required by the current adopted edition of ASME A17.1/CSA B44. Receptacles in the pit area shall be of the GFCI type (see NFPA 70, Art. 620.24).

(6) Where the main line disconnect is being replaced or relocated, and the machine room or hoistway is sprinklered, or in the process of being sprinklered, a shunt-trip device shall be installed.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02415 (~~What are the conditions for obtaining a temporary construction operating permit?~~) Construction-use permit.

~~(Note:~~ See WAC 296-96-01040 for fees.

(1) In order to obtain a permit: The elevator must at a minimum adhere to:

(a) ASME A17-1 Section 5.10 Elevators Used for Construction.

(b) A single means of disconnecting the elevator must be provided and related equipment must be identified by the use of numbers or letters on the disconnect, the controller, the drive machine, the cross head, and the car operating panel.

(c) The key operation of Phase I must recall the elevator.

(d) A means of emergency communication with the elevator must be provided. If there is no permanent method of emergency communication an operator with communication equipment must be provided.

(e) Tests shall be conducted according to A17.1-8.10.5.10 Elevators Used for Construction.

(f) Hydraulic elevators with less than four stops may not be issued a temporary construction operating permit unless preapproved by the department.

(g) Elevator cab interiors must be completed. Temporary cabs may be used and walls must be covered with fire retardant materials.

(h) The elevator must pass load tests and safety circuit inspections.

(i) Temporary or permanent lights in the cab, machine room and at the landings must be provided.

(j) Machine rooms must be fully enclosed and have a lockable door.

(k) Hoistways must be fully enclosed.

(l) The elevator is for construction use only. Office furniture and goods used to stock the building are not to be considered construction work.

(2) The person operating the permitted conveyance under this section must be properly trained in operation and safety and:

(a) The operator, which may be one of your employees, must be on the elevator whenever it is in use.

(b) The operator must be designated to be the sole operator of the elevator.

(c) The operator must be trained in the proper operation of the elevator, the proper procedure to handle an emergency and must know who to contact in the event of an emergency involving the operation of the elevator.

(d) The operator must carry a means of two-way communication on his/her person at all times. (This may be in the form of a cellphone, walkie-talkie, etc., providing proper reception is obtainable at all times.) (1) Pursuant to RCW 70.87.090, a temporary construction use operating permit may be requested by the elevator contractor.

(2) Elevators granted a temporary construction-use permit shall comply with ASME A17.1/CSA B44, Section 5.10 as a minimum.

(3) Temporary construction operating permits are valid for thirty days (see RCW 70.87.090).

(4) The elevator shall be provided with an operator during all hours of elevator operation. The operator shall be provided with a means to communicate with personnel who can assist in the event of an elevator-related emergency.

(5) The elevator is restricted for use by construction workers and construction materials only.

(6) Renewal of a temporary operating permit is at the discretion of the department. A reinspection is required before a permit can be renewed.

(7) All elevators with expired temporary construction operating permits that have not passed a final inspection may not be operated. Operating an elevator with an expired permit shall result in a civil penalty (see WAC 296-96-01070 (1)(a)).

Section 2

Plan Submittals and Layout Drawings

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02421 Layout (~~(drawings)~~) plans. (~~(Two)~~) A set(s) of legible layout/plans (must) shall be submitted to the department(,). In addition to the layout criteria in ASME(,) A17.1/CSA B44 these shall include the following:

(1) A (~~(machine)~~) machine/control room plan view drawing identifying room dimensions, location of drive machine (~~(and)~~), motor controller, mainline disconnect, (~~(outlet)~~) light switch, and door swing;

(2) A hoistway plan view identifying hoistway and conveyance equipment dimensions and clearances, foot print of (~~(cab)~~) car enclosure showing doors and inside (~~(cab)~~) net dimensions, (~~(and)~~) location and dimensions of hoistway, and (~~(cab)~~) car door or gates;

(3) A hoistway elevation (~~(section)~~) view identifying elevation of the hoistway and conveyance equipment dimensions and clearances, (~~(location of rail brackets)~~) the location of the pit ladder, pit light, light switch, pit stop switch, and top (~~(of)~~) and bottom vertical car clearances(~~(, and on MRLs the height to the equipment from the horizontal plane of the top of the car with the car positioned at the top landing)~~). The height to the maintainable equipment at the top of the hoist-

way from the horizontal plane of the top of the car with the car positioned at the top landing shall be indicated on the hoistway elevation plans; and

(4) Detail drawings identifying specific details of conveyance components: Rail bracket fastening, sill support and fastening, machine beams, entrance (~~(installation)~~) assembly(~~(, loads and reactions)~~) detail, and additional seismic requirements (~~(when required by building code)~~); see ASME A17.1/CSA B44, Section 8.4 or 8.5 as applicable;

(5) General conveyance data to include(,):

(a) Conveyance type (~~(model and capacity)~~) (e.g., electric, hydraulic, platform lift, etc.);

(b) (~~(Location number (within building))~~) Rated capacity;

(c) (~~(Up/down full load speed)~~) Building designation (e.g., Elev. #1, Car #2, etc.);

(d) Rated speed;

(e) Car enclosure (construction material);

(~~(e)~~) (~~(f)~~) Standoff panels (if applicable) (submit test data to ASTM E 84 if applicable);

(g) Door type and manufacturer (single speed, two-speed, center opening, RH/LH opening);

(~~(f)~~) Platform thickness; (h) Car and hall fixture detail;

(~~(g)~~) (~~(i)~~) Finish floor (tile, carpet) (submit test data to ASTM E 648 if applicable);

(~~(h)~~) (~~(j)~~) Power unit/drive motor (manufacturer and HP);

(~~(i)~~) Power requirements;

(~~(j)~~) (~~(k)~~) Equipment heat generation (BTU) (items (~~(k)~~) (~~(l)~~) through (p) are applicable only to hydraulic elevators);

(~~(k)~~) (~~(l)~~) Jack (~~(model)~~) assembly manufacturer;

(~~(h)~~) (~~(m)~~) Plunger O.D. (if telescoping O.D. of each section);

(~~(m)~~) (~~(n)~~) Plunger wall thickness;

(~~(n)~~) (~~(o)~~) Cylinder O.D.;

(~~(o)~~) (~~(p)~~) Cylinder wall thickness (items (~~(p)~~) (~~(q)~~) through (u) are applicable to roped-hydraulic and/or electric elevators);

(~~(p)~~) (~~(q)~~) Size and number of (~~(hoist ropes)~~) suspension means;

(~~(q)~~) (~~(r)~~) Roping type (1:1, 2:1, underslung);

(~~(r)~~) (~~(s)~~) Governor location;

(~~(s)~~) (~~(t)~~) Governor rope size and (~~(number)~~) type;

(~~(t)~~) (~~(u)~~) Safety (~~(manufacturer)~~) manufacturer and type;

(~~(u)~~) (~~(v)~~) Emergency brake (~~(manufacturer)~~) manufacturer and type;

(~~(v)~~) (~~(w)~~) Car buffer type and stroke;

(~~(w)~~) (~~(x)~~) CWT buffer type, impact, and stroke; and

(~~(x)~~) (~~(y)~~) Designed top/bottom runby.

(6) The installation of a conveyance shall not begin until an approved set of plans and permit has been issued by the department.

(7) The stamped approved plans and permit shall be posted on the job site during the installation and up to the time the conveyance has passed an acceptance inspection.

(8) Where structural elements are part of any installation, relocation, or alteration, the plans shall be reviewed and stamped by a professional engineer, registered in the state of Washington.

Section 3

Requirements for Hydraulic Elevators

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02425 ~~((Where is a shut-off valve required for hydraulic elevators?))~~ **Shut-off valves.** Two shut-off valves may be required.

(1) ASME requires that a shut-off valve be installed in the machine room.

(2) When the pit is lower than the machine, a shut-off valve ~~((must))~~ shall be installed in the pit.

(3) A separate shut-off valve is not required in the pit for hydraulic elevators equipped with a safety/rupture valve that rotates no more than 180 degrees to stop the flow of hydraulic fluid and has a safety shut-off handle capable of being grasped.

EXCEPTION: Limited use/limited application (LULA), special purpose and residential elevators are exempt from this section.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02452 Access to machines, ~~((beams))~~ overhead sheaves, shackles, and hitch supports ~~((must meet the following requirements))~~. When the machine space is provided inside the hoistway~~((+(-1)))~~ maintainable items on the machine ~~((and))~~, overhead sheaves ~~((cannot))~~, shackles and hitch supports shall not be located more than six feet six inches from the horizontal plane of the ~~((cartop))~~ car top.

~~((2))~~ The cartop inspection shall not operate past the normal terminal stopping device.

Note: Where access is greater than six feet six inches (see WAC 296-96-23115:))

Section 4

Main Line Disconnects and Shunt-Trip Breakers

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02460 ~~((What are the requirements for electrical main line disconnects?))~~ **Location.** (1) The main line ~~((disconnect switch(es) or circuit breaker must))~~ disconnect(s) shall be located per ~~((NEC))~~ NFPA 70, Article 620.51(c) and:

(a) Inside the machine room door on the ~~((lock jamb))~~ strike side of the machine or control room door;

(b) Not more than twenty-four inches from the ~~((jamb))~~ door to the operating handle; and

(c) Be at a height not less than thirty-six inches ~~((and not))~~ nor more than sixty-six inches above the finish floor as measured centerline to the disconnect handle.

(2) For multicar machine rooms the switches shall be grouped together as close as possible to that location.

(3) For machine rooms with double swing doors, the doors ~~((must))~~ shall swing out and the switch(es) ~~((must))~~ shall be located on the wall adjacent to the hinge side of the active door panel.

(4) ~~((The switch(es) must be designed so that they may be locked out and tagged in the open position.))~~ Shunt-trip breakers, where provided, shall be located in the elevator machine room or control room.

(5) Where shunt-trip breakers are also being used as a main line disconnect, they shall comply with subsections (1) through (3) of this section.

EXCEPTION: Special purpose, residential elevators, and residential inclined elevators are exempt from this section. For LULAs, the main disconnect and car light disconnect shall be located adjacent to the controller when not located in a dedicated machine room. When a machine room is provided it shall comply with this section.

Section 5

Additional Machine/Control Room Requirements

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02465 ~~((What are the requirements associated with elevator))~~ **Machine rooms~~((?))~~, control rooms, and control spaces.** (1) ~~((Panels or doors for the purpose of accessing nonelevator equipment are not permitted in elevator machine rooms. Passage through the machine room may not be used to gain access to other parts of the building that do not contain elevator equipment.~~

(2) ~~((The lighting control switch ~~((must))~~ shall be located inside the machine room or control room within twenty-four inches of the lock jamb side of the ~~((machine room))~~ access door.~~

~~((3))~~ Cooling or venting of the elevator machine room shall be to the present building code adopted by the state.

~~Machinery spaces, machine rooms, control spaces, and control rooms that contain solid state equipment for elevator operation shall be provided with an independent ventilation or air conditioning system to protect against the overheating of the electrical equipment. Ventilation systems shall use outdoor makeup air. The system shall service the equipment space only, and shall be capable of maintaining the temperature and humidity within the range established by the manufacturer's specifications. Where no manufacturer specifications are available, the equipment space temperature shall be maintained at no less than fifty five degrees Fahrenheit and no more than ninety degrees Fahrenheit.~~

~~The cooling load for the equipment shall include the BTU output of the elevator operation equipment as specified by the manufacturer based on one hour of continuous operation. The outdoor design temperature for ventilation shall be from the 0.5 percent column for summer from the Puget Sound Chapter of ASHRAE publication "Recommended Outdoor Design Temperatures, Washington State." The following formula shall be used to calculate flow rate for ventilation:~~

CFM = BTU output of elevator machine room equipment / [1.08 x (acceptable machine room temp - makeup air temp from the ASHRAE publication)]

EXCEPTION: For buildings four stories or less, natural or mechanical means may be used in lieu of an independent ventilation or air conditioning system to keep the equipment space ambient air temperature and humidity in the range specified by the elevator equipment manufacturer.

(4) A thermostat must be provided in the elevator machine room to control the temperature.

(5) Where no specifications are available, the machine room temperature shall be maintained at no less than fifty-five degrees Fahrenheit and no more than one hundred degrees Fahrenheit.

(6) When standby power is connected to the elevators, the machine room ventilation or air conditioning system shall be connected to the standby power.

(7) If the air conditioner is mounted overhead, seven feet of headroom clearance must be provided from the underside of the unit to the machine room floor.

(8) If ventilation is used, it must not exhaust air into other parts of the building.

(9) Machine rooms located in underground parking garages must have a means to exchange the air in the machine room. An "exchange of air" is completed through separate intake and exhaust systems.

EXCEPTION: The air in an underground parking garage machine room can be exchanged directly into the parking garage area.

(10) All elevators that are provided with remote elevator machine and/or control rooms must be provided with a permanent means of communication between the elevator car and the remote machine room and/or control room.

(11) For machine rooms and control rooms with double swing doors, the doors shall swing out and the switch(es) shall be located on the wall adjacent to the hinge side of the active door panel.

(2) Elevator machine room, control room, and control space access doors ((must have signs with lettering at least 1.25 inch in height with "elevator equipment room authorized personnel only - no storage.") shall be provided with a sign that reads "Elevator Equipment Room/Authorized Personnel Only! Storage of equipment not pertaining to the elevator is prohibited." The sign shall be located approximately 60 in. above floor level. Lettering shall not be less than 0.375 in. in height and shall contrast with the background. Where double doors are provided, the sign is only required to be provided on the active door panel.

EXCEPTION: Residential conveyances, LULAs and special purpose elevators are exempted from these requirements.

(3) The temperature and humidity shall comply with ASME A17.1/CSA B44. Where no manufacturer's temperature range is available, the room or space shall be kept between 13°C (55°F) and 38°C (100°F).

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02470 ((What are the requirements for Fireman's Service Phase I and Phase II recall?)) **Fire-**

man's service for groups of four or more. ((Devices for deactivating recall must be in the line of sight of the elevator; be secure from tampering; and must be accessible to fire, inspection, and elevator service personnel only. Owner designated patient express and emergency hospital service elevators may have a manual control in the car for use by authorized patient care personnel. When activated, it shall preclude Phase I recall.

The illuminated visual signal in the car that indicates when Phase I Emergency Recall Operation is in effect must stay illuminated until the car is taken off Phase I operation.

Once the car returns to the designated landing on Phase I recall and the doors have reached their full open position, the buzzer must be silenced within ten seconds.)) Groups of elevators containing four or more cars ((shall)) may be provided with two((s)) three-position key switches per group. For purposes of this section, a group shall be defined as all elevators serving the same portion of a building. Hall call buttons common to a group will remain in service unless both Phase I recall switches of a four car or larger group are placed in the recall mode or a fire alarm recall signal is initiated.

((**EXCEPTION:** Limited use/limited application (LULA), special purpose, and residential elevators are exempt from this section.))

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02471 ((ASME A17.1 2.27.8 FEO-K1 Fire service keys.)) **Emergency personnel lock box.** ((The key switches required by ASME A17.1 2.27.2 through 2.27.5 for all new and altered elevators in a building shall be operable by the FEO-K1 key. The keys shall be Group 3 Security (see ASME A17.1-8.1). A separate key shall be provided for each switch. This key shall be of a tubular, 7 pin, style 137 construction and shall have a bitting code of 6143521 starting at the tab sequence clockwise as viewed from the barrel end of the key. The key shall be coded "FEO-K1." The possession of the "FEO-K1" key shall be limited to elevator personnel, emergency personnel, elevator equipment manufacturers, and authorized personnel during checking of firefighters emergency operation.

Note: (ASME A17.1 2.27.8) Local fire or building authorities may specify the requirements for a uniform keyed lock box and its location to contain the necessary keys. Where required, a lock box, including its lock and other components, shall conform to the requirements of UL 1037 (see Part 9). These keys shall be kept on the premises in a location readily accessible to firefighters and emergency personnel, but not where they are available to the public.))

A lock box is required to house the keys specified in ASME A17.1/CSA B44, Section 2.27.8.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02481 **City of Seattle requirements for sprinklers and shunt trips** ((within the city limits of Seattle)). Within the city limits of Seattle application of water will be manually controlled and elevator shut down will be

installed per the current code adopted by the city of Seattle elevator section.

Section 6

Correction Facility Elevators

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02490 ((Are there exceptions for correction facility elevators?)) Exceptions. Facilities that require special consideration to ensure the safety of security personnel and to prevent escapes ~~((must))~~ shall meet the relevant requirements of ASME ~~((A17.1))~~ A17.1/CSA B44, except that accessible "in-car" stop switches and signaling devices are not required when the elevator operation is:

- (1) Continually monitored by audio-visual equipment.
- (2) Remotely controlled from a single location.

~~((3))~~ Controls necessary for an elevator's operation may be located inside a car when the operating panel has a locked cover.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02525 ((What is required for installation and operation of emergency communication systems?)) Communication devices and systems. ~~((Every elevator must contain an emergency two-way communication system. The installation and operation of this emergency communication system must comply with the ASME A17.1 code in effect when the department issued the elevator's installation permit. In addition to the appropriate ASME A17.1 code, the following requirements apply:~~

(1) The communication device located in the elevator car must comply with the following:

(a) The maximum height of any operable part of the communication system is forty-eight inches above the floor.

(b) Raised symbols and letters must identify the communication system. These symbols and letters must be located adjacent to the communication device. The characters used must be:

- (i) At least 5/8 inches but no more than two inches high;
- (ii) Raised 1/32 inch;
- (iii) Upper case;
- (iv) Sans serif or simple serif type; and
- (v) Accompanied by Grade 2 Braille.

(c) If the system is located in a closed compartment, opening the door to the compartment must:

(i) Require the use of only one hand without tight grasping, pinching, or twisting of the wrist; and

(ii) Require a maximum force of five pounds.

(d) The emergency communication system must not be based solely upon voice communication since voice-only systems are inaccessible to people with speech or hearing impairments. An indicator light must be visible when the telephone is activated. This nonverbal means must enable the message recipient to determine the elevator's location address and, when more than one elevator is installed, the elevator's number.

~~(e) The emergency communication system must use a line that is capable of communicating with and signaling to a person or service that can respond appropriately to the emergency at all times.~~

~~(2) A communication device (intercom), if required by ASME A17.1, must be installed in the lobby adjacent to the Phase I key switch. This device must be a two-way communication device used to communicate with individuals in the elevator.~~

~~(a) The height of any communication device(s) located in the lobby must be located between forty-eight and sixty inches above the floor.~~

~~(b) Additional communication device(s) may also be located in other parts of the building in addition to the one located in the lobby.~~

~~(e) ASME A17.1-2.27.1.1.6(a) The two-way voice communication (intercom) within the building is not required to meet the telephone operability verification requirements if the connections are hardwired.~~

EXCEPTION: Elevators that have less than sixty feet of travel do not require an intercom.

~~(3) Subsections (1) and (2) of this section do not apply to special purpose elevators. However, residential and special purpose elevators must have a means of communication located inside the elevator cab. This communication device must be permanently installed and available at all times. Cell phones and radios do not meet this requirement.~~

EXCEPTION: Residential inclined elevators are exempt from this section.

Communication devices and systems shall comply with ASME A17.1/CSA B44 and ICC A117.1 as applicable.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02530 ((What requirements apply to the size and location of car handrails?)) Handrails. ~~((A handrail must provide coverage lengthwise at least ninety percent from wall to wall.~~

(1) A handrail must be installed on all car walls not used for normal exits. The handrails must be:

(a) Attached to the wall at a height of between thirty-two and thirty-five inches from the floor to the top of the handrail;

(b) Attached to the wall with a 1-1/2 inch space between the wall and the rail;

(c) Constructed with the hand grip portion not less than 1-1/4 inches but not more than two inches wide;

(d) Constructed with a cross-section shape that is substantially oval or round;

(e) Constructed with smooth surfaces and no sharp corners. Approaching handrail ends on a blank wall in the interior corners of a car do not have to return to the wall. However, if the handrail is located on the closing door wall of a single-slide or two-speed entrance elevator and it projects an abrupt end towards people entering the car, the handrail end must return to the wall.

(2) Residential elevators must have at least one handrail. The handrail must be installed on a car wall not used for normal exits.

EXCEPTION: Special purpose elevators are exempt from this section.)

Handrails are not required. Where handrails are provided in elevator cars, their configuration shall comply with ADAAG or ICC A117.1.

Note: Residential conveyances are excluded from this requirement.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02552 Location of equipment in hoistway. (1) Where an elevator cannot be prevented from movement electrically and mechanically prior to entering the hoistway or pit area, the following restrictions shall apply:

(a) Motor controllers, motion controller, drive, hydraulic control valves, hydraulic reservoir (tank), and hydraulic pump motor shall not be located in the hoistway or pit.

~~((2) Elevator controls and machinery other than driving machines, hydraulic cylinder, piston, governor, and their components shall be located in a room dedicated exclusively to elevator equipment.~~

~~(3) Drive sheaves, deflector sheaves, machine parts and supports are permitted to project into the hoistway.~~

~~(4)) (b) Driving machines shall not be located in the pit.~~

(2) The ability to activate the means to secure the elevator electrically and mechanically shall be such that the activation can be performed without full bodily entry into the hoistway or pit.

(3) Elevator controls and machinery other than driving machines, hydraulic cylinder, piston, governor, and their components shall be located in a room dedicated exclusively to elevator equipment.

(4) Drive sheaves, deflector sheaves, machine parts and supports are permitted to project into the hoistway.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02558 ~~((Pit equipment.)) Working platforms.~~ ~~((1) ASME A17.1 2.4.2 When oil buffers are used, the bottom runby shall be not less than one hundred fifty millimeters (six inches). Sections (a) and (b) from the ASME A17.1 2.4.2.1 code are not adopted.~~

~~(2) ASME A17.1 2.2.8))~~ When working platform inspection operation is provided, according to ASME ~~((A17.1 2.7.5.3.6))~~ A17.1/CSA B44, 2.7.5.3.6 in hoistways containing a single elevator:

~~((a))~~ (1) A pit access door is required; or

~~((b))~~ (2) Additional elevator personnel shall be present outside the hoistway when the pit inspection operation is in effect.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02580 ~~((Are keys required to be on-site?)) Keys required on-site.~~ The keys ~~((to the machine room and the keys that are necessary to operate the elevator must))~~ for Group 2 Authorized Personnel (see ASME A17.1/CSA B44 8.1.3) shall be located in a locked key retainer box in the elevator lobby at the designated level

above the hall buttons, or located by machine room doors at no more than six feet above the floor, provided access to the key box doesn't require passage through locked doors. If in order to meet this requirement the box would be located in an unsecured location (such as the outside portion of a condo), other arrangements shall be accommodated with the written permission of the department.

The key retainer box ~~((must))~~ shall be:

- Readily accessible to authorized personnel;
- Clearly labeled "ELEVATOR";
- Securely mounted;
- Equipped with a 1-inch mortise cylinder cam lock with keyway set to a #39504 Fort type key ~~((and securely mounted))~~;

Further:

• Keys for access to elevator machine rooms and for operating elevator equipment ~~((must))~~ shall be tagged and kept in the key box.

• The box ~~((must))~~ shall contain all keys associated with the Group 2 Security and applicable to the elevator(s) (see ASME A17.1/CSA B44, Req. 8.1.3).

• Mechanical hoistway access devices ~~((must))~~ shall be located in the key box or machine room.

Note: The cities of Seattle and Spokane may designate their own options for keys and lockbox arrangement via their rule processes. ~~((ASME A17.1 2.27.8 Local fire or building code authorities may specify the requirements for a uniform keyed lock box and its location to contain the necessary keys (this will be in addition to the requirements above). Where required, a lock box, including its lock and other components, shall conform to the requirements of UL-1037 (see Part 9). These keys shall be kept on the premises in a location readily accessible to firefighters and emergency personnel, but not where they are available to the public.))~~

EXCEPTION: Residential elevators are exempt from this section.

~~((LULA))~~

AMENDATORY SECTION (Amending WSR 08-23-085, filed 11/18/08, effective 12/19/08)

WAC 296-96-02590 ~~((When does the department require a local building official to sign off for the installation of LULAs, stair lifts, inclined wheelchair lifts and vertical wheelchair lifts?)) Building official signatures.~~ In existing buildings where LULAs, stair lifts, inclined wheelchair lifts and vertical wheelchair lifts are to be installed, the local building official ~~((must))~~ shall signify that he/she is allowing this type of conveyance on a form provided by the department.

EXEMPTION: Residential conveyances are exempt from this section.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02605 Private residence inclined stairway chairlifts. (1) Battery operated private residence inclined stairway chairlifts are not required to be permanently wired ~~((into a structure))~~ or installed on an individual branch circuit as required by NEC 620.51 (A) Exception 2. These

conveyances (~~(may be equipped with)~~) shall be permitted to use a cord and plug (~~(The plug must be directly inserted into a wall receptacle that is protected by a fuse or a circuit breaker at its source and is capable of supporting the additional load on the circuit. The source must be identified either at the receptacle or at the feeder panel. The cord must be secured in a manner that will not create any tripping hazards)~~) that will act as the equipment disconnecting means. The circuit, which is used for the equipment, shall have overcurrent protection that will protect the circuit and the equipment. The circuit shall have sufficient capacity to support the additional load of the stairway chairlift. Units that are operated by line voltage shall comply with NEC 620.51 (A) Exception 2.

(2) (~~ASME A18.1-7.10.1 Operation of the lift from the top and bottom landings and from the platform shall be controlled by control switches at all stations and by means of the continuous pressure type. Operation of the lift from the intermediate landings shall be controlled by "up" and "down" control switches and by means of the continuous pressure type. Controls shall be one thousand two hundred millimeters (forty eight inches) maximum and nine hundred fourteen millimeters (thirty six inches) minimum above the platform floor or facility floor or ground level. Operating devices shall be designed so that both the "up" and "down" circuits cannot be operated at the same time.~~)

(~~3~~) A free passage width of not less than seventeen inches shall be provided. If the chair can be folded when not in use the distance can be measured from the folded chair. When in use there must be a minimum of two inches between any body part and the nearest obstruction.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-02640 Incline commercial stairway chair lifts. (~~(1) ASME A18.1-2.10.1 and ASME A18.1-3.10.1 Operation of the lift from the top and bottom landing(s) and from the platform shall be controlled by control switches at all stations and by means of the continuous pressure type. Operation of the lift from the intermediate landing(s) shall be controlled by "up" and "down" control switches and by means of the continuous pressure type. Controls shall be one thousand two hundred millimeters (forty eight inches) maximum and nine hundred fourteen millimeters (thirty six inches) minimum above the platform floor, facility floor, or ground level. Operating devices shall be designed so that both the "up" and "down" circuits cannot be operated at the same time.~~)

(2) ~~ASME A18.1-4.1.1 Incline commercial stairway chair lifts in new and existing buildings must have a clear passage width of not less than twenty inches. If the seat can be folded when not in use, the distance shall be measured from the folded position to the nearest obstruction.~~) Governor overspeed testing shall be verified by manufacturer documentation and manually tripped at rated speed with no load.

PART C1 - MINIMUM STANDARDS FOR NEW AND ALTERED STANDARD APPLICATION MATERIAL LIFTS

NEW SECTION

WAC 296-96-05000 Scope. The requirements in this part are intended to cover those stand-alone standard application vertical lifts. Where Type-A or Type-B material lifts are installed, they shall comply with ASME A17.1/CSA B44, Part 7.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-05010 (~~What are the department's rules on material lifts?~~) Definition and use. (1) These rules define a "standard application material lift" as a fixed stationary conveyance that:

- (a) Has a car or platform moving in guides;
- (b) Serves two or more floors of a building or structure;
- (c) Has a vertical rise of at least (~~(five feet)~~) 5 ft. and no more than 60 ft.;
- (d) Has a maximum speed of (~~(fifty feet per minute)~~) 50 ft./min.;
- (e) Is not part of a conveying system but is an isolated self-contained lift;
- (f) Travels only in an inclined or vertical direction;
- (g) Is operated or supervised by an individual designated by the employer;
- (h) Is installed in a commercial or industrial area not accessible to the general public; and
- (i) May not be operated from within the car.

(2) Standard application material lifts (~~(must)~~) shall not carry people so their operation or failure will not endanger people working near them. WAC 296-96-05010 through 296-96-05290 establishes requirements for the construction, installation, and operation of standard material lifts. (~~These rules allow certain conveyances designed solely to transport material and equipment to be constructed to less stringent and costly standards than ASME A17.1.~~)

These rules do not apply to conveyances that lack a car (platform) and use rollers, belts, tracks, power conveyors, or similar carrying (loading) surfaces. (See ASME/ANSI B20.1.)

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-05020 (~~What requirements apply to the construction and fire safety of~~) Hoistway enclosure(~~s?~~). Generally, local codes and ordinances govern hoistway enclosure construction. When not in conflict with a local code requirement, the enclosure (~~(must)~~) shall:

- (1) Be built to a height of 7 feet above each floor, landing and adjacent stairway tread;
- (2) Extend (adjacent to the counterweights) the full height of the floor and 8 inches beyond the counterweight raceway;

(3) Be constructed of either solid material or material with openings that will reject a 2-inch diameter ball; ~~((and))~~

(4) Be supported and braced so that it does not deflect more than 1 inch when subjected to a force of 100 ~~((pounds))~~ lbs. applied perpendicular at any point~~((:))~~;

(5) A full height hoistway enclosure is required only on the side(s) of the material lift for which the car is not equipped with a gate or enclosure.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-05030 ~~((What are the construction requirements for))~~ **Hoistway ((enclosure)) gates and doors((?))**. Enclosure gates (doors) ~~((must))~~ shall be constructed according to the following standards:

(1) The gate ~~((must))~~ shall guard the full width of each opening on every landing.

(2) It ~~((must))~~ shall be built in one of the following styles:

- (a) Vertically sliding;
- (b) Biparting;
- (c) Counter-balanced;
- (d) Horizontally swinging; or
- (e) Horizontally sliding.

(3) Be constructed of either solid material or material with openings that will reject a 2-inch diameter ball.

(4) Be constructed with a distance of not more than 2 1/2 inches between a hoistway gate or hoistway door face and a landing sill edge.

(5) Be designed and guided to withstand (without being broken, permanently deformed, or displaced from its guides or tracks) a 100 pound lateral pressure applied near its center.

(6) Be equipped with labeled and listed electrical interlock(s) that prevents the operation of the lift when the doors or gates are open.

(7) Be constructed with balanced type vertically sliding gates that extend no more than 2 inches vertically from the landing threshold and no less than 66 inches above it.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05040 ~~((What requirements apply to a hoistway that does not extend to the lowest levels of a building or structure?))~~ **Space below hoistway**. If the space directly below the hoistway is accessible, the following requirements apply:

(1) All lift counterweights ~~((must))~~ shall have safeties.

(2) All cars and counterweights ~~((must))~~ shall have either spring or oil buffers.

(3) Spring buffers ~~((must))~~ shall not fully compress when struck by a car carrying its rated load or by the counterweights when they are moving at the following speeds:

(a) For safeties operated by a governor, the tripping speed of the governor is the maximum striking speed.

(b) For safeties not operated by a governor, 125 percent of the rated speed is the maximum striking speed.

(4) Car and counterweight-buffer supports ~~((must))~~ shall be able to withstand any impact upon the buffer (without per-

manent deformation) while occurring at the following speeds:

(a) For safeties operated by a governor, the tripping speed of the governor at the rated capacity is the maximum impact speed.

(b) For safeties not operated by a governor, 125 percent of the rated speed is the maximum impact speed.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05050 ~~((What requirements apply to lift hoist driving machines?))~~ **Drive machines**. (1) Lift hoist driving machines ~~((must))~~ shall be one of the following types:

- (a) Winding drum.
- (b) Traction.
- (c) Direct plunger.
- (d) Hydraulic.
- (e) Roped or chained hydraulic.
- (f) Rack and pinion.
- (g) Roller chain drive.
- (h) Scissors.
- (i) Screw.

(2) Overhead mounted driving machines ~~((must))~~ shall either be secured to the top of overhead beams or supported by the floor above. Hooks, cables, chains or similar devices cannot suspend driving machines.

(3) For traction machines, the diameter of drive sheaves cannot be less than 30 times the diameter of the hoisting cables. The diameters of all other sheaves cannot be less than 21 times this diameter.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-05070 ~~((What car enclosure requirements apply to lifts?))~~ **Car enclosures**. (1) Lift cars ~~((must))~~ shall have their sides enclosed with solid panels or openwork that will reject a two-inch diameter ball. On the car sides where there is no gate (door), the enclosure ~~((must))~~ shall extend to a height of at least forty-eight inches from the floor or to a height necessary to enclose the materials that are being moved, whichever is greater. On the car side next to the counterweight runway, the enclosure ~~((must))~~ shall extend vertically to the car top or underside of the car crosshead and horizontally to at least six inches on each side of the runway.

(2) Standard application material lifts in unenclosed hoistways ~~((must))~~ shall have a car gate that is constructed of the same material as the car enclosure.

(3) The gate, if required or supplied, ~~((must))~~ shall be the same height as the sidewalls of the car enclosure and ~~((must))~~ shall be provided with a latching device and electrical contact to prevent the operation of the motor and brake if open more than two inches.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-05080 ~~((How much))~~ **Running clearance ((is permitted between a car sill and a hoistway?))**.

Running clearance between a car sill and a hoistway enclosure ~~((must))~~ shall not exceed two inches. If the lift is supplied with a car door or gate, the running clearance is measured from the car sill to the hoistway sill.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05090 ~~((What requirements apply to))~~ Car and counterweight guides ~~((?)~~ Car and counterweight guide rails ~~((must))~~ shall be fastened so they will not deflect more than 1/8 ~~((inch))~~ in. They ~~((must))~~ shall also be strong enough to withstand, without deformation, the application of a car safety when the car is carrying its rated load and traveling at its rated speed.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05100 ~~((How much weight can be placed on a car frame and platform during))~~ Loading and unloading ~~((?)~~ Car frames and platforms ~~((must))~~ shall be designed and constructed per ~~((manufacturers'))~~ manufacturer's specifications to withstand the impact of the maximum weight encountered during loading and unloading.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-05120 ~~((What requirements apply to car))~~ Operating devices, terminal stopping devices and electrical protective devices ~~((?)~~ If electrically operated, such devices ~~((must))~~ shall be enclosed. On lifts driven by winding drum machines, there ~~((must))~~ shall be a slack rope device employing an enclosed electric switch (manually reset type) which ~~((halts))~~ removes power to the drum and brake when the hoisting rope becomes slack.

On other lifts suspended by flexible means such as chain, there ~~((must))~~ shall be a slack rope/chains device employing an enclosed electric switch (manually reset type) which ~~((halts))~~ removes power to the machine and brake when the suspension means becomes slack.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-05140 ~~((What requirements apply to))~~ Car safeties ~~((?)~~ Car safeties ~~((must))~~ shall be used on all material lifts that are suspended by wire ropes or chains. They ~~((must))~~ shall be able to stop and sustain a car carrying ~~((one hundred twenty five))~~ 125 percent of its rated load. This shall be demonstrated during the acceptance inspection and test procedure with an overspeed or gravity drop test, minimum two safeties at a time. On lifts driven by rack and pinion machines:

(1) Car safeties ~~((must))~~ shall be able to stop and sustain a car carrying ~~((one hundred twenty five))~~ 125 percent of its rated load.

(2) Car safeties will consist of a freely rotating safety pinion, an overspeed governor and a safety device which may be mounted on the car.

(3) The rotating pinion driving an overspeed governor will travel on a stationary rack which is vertically mounted in the hoistway.

(4) The governor will actuate the safety device when the downward speed of the car reaches the tripping speed and will bring the car to a gradual stop.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05150 ~~((What requirements apply to lift))~~ Brakes ~~((?)~~ On electric lifts, brakes ~~((must))~~ shall engage by springs and ~~((must))~~ shall release electronically. All brakes ~~((must))~~ shall have the ability to stop a car and hold it at rest while the car is carrying 125 percent of its rated load. At least one brake ~~((must))~~ shall be mounted on the load side of the driving machine's worm shaft. On indirectly driven lifts, brakes ~~((must))~~ shall engage when the driving mechanism fails.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-05160 ~~((What types of ropes, chains, and rope connections must be used on a lift?))~~ Suspension means. (1) The following general requirements apply:

(a) Iron (low carbon steel) or steel wire ropes with fiber cores ~~((must))~~ shall be used to suspend cars and counterweights.

(b) The minimum safety factor for suspension ropes ~~((must))~~ shall be 6 times the manufacturers rated breaking strength per rope.

(c) The car, the counterweight end of the car and the counterweight wire ropes (or the stationary hitch ends where multiple roping is used) ~~((must))~~ shall be fastened so that the looped ends of the turned back portion in the rope sockets are clearly visible. Fastenings ~~((must))~~ shall either be:

(i) Individual tapered, babbitted rope sockets; or

(ii) Other types of department approved rope fastenings.

(d) Rope sockets ~~((must))~~ shall develop at least 80 percent of the breaking strength of the strongest rope used in the sockets.

(e) U-bolt rope clips (clamps) cannot be used for load fastenings.

(f) A metal or plastic data tag ~~((must))~~ shall be securely attached to one of the wire rope fastenings each time the ropes are replaced or reshackled. The data tag ~~((must))~~ shall include:

(i) The diameter of the ropes in inches; and

(ii) The manufacturer's rated breaking strength.

(iii) The month and year the ropes or chain were installed.

(iv) The name of the person or organization who installed the ropes.

(v) All replacements of wire rope or chain ~~((must))~~ shall be in accordance with the lift manufacturer's specifications.

(2) The following requirements apply to specific types of material lifts:

(a) Traction type lifts ~~((must))~~ shall use at least three hoisting ropes.

(b) Lifts suspended by hoisting chains ~~((must))~~ shall comply with the chain manufacturer's specifications for maintenance, inspection, and application.

(c) Lifts using roller chain type lifting chains ~~((must))~~ shall use chains with a ~~((six to one))~~ 6:1 safety factor based on ASME/ANSI B-29.1M minimum (not average) chain strength.

(d) Drum type lifts, ~~((must))~~ shall use either at least two hoisting ropes or a secondary as well as a primary load path to the hoist ~~((must))~~ shall be employed. Also, the cable secured to the drum ~~((must))~~ shall be at least one and one-half turns around the drum when the carrier is at its extreme limit of travel.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-05170 ~~((What requirements apply to lift))~~ Control stations ~~((?))~~. Lift control stations ~~((must))~~ shall be located at each landing out of reach but within sight of the car. They ~~((must))~~ shall have controls that are permanently and clearly labeled by function. The controls ~~((must))~~ shall have a stop switch that will halt electrical power to the driving machine and brake. This stop switch ~~((must))~~ shall:

- (1) Be manually operated;
- (2) Have red operating handles or buttons;
- (3) Be conspicuously and permanently marked "STOP"; and
- (4) Clearly indicate the stop and run position.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05190 ~~((How must lift pits be constructed?))~~ Pits. Lift pits ~~((must))~~ shall:

- (1) Have noncombustible floors;
- (2) Be designed to prevent the entry of groundwater into the pit;
- (3) Have floors that are substantially level;
- (4) Have drains that are not directly connected to sewers;
- (5) Provide safe and convenient access to the pit;
- (6) Provide an approved ladder for pits deeper than 3 feet; and
- (7) Have ~~((non-perforated))~~ nonperforated metal guards installed on the open sides of the counterweights where spring, solid or oil type buffers are attached. These guards ~~((must))~~ shall:

(a) Extend from a point not more than 12 inches above the pit floor to a point at least 7 feet but not more than 8 feet above the floor;

(b) Be fastened to a properly reinforced and braced metal frame which will be at least equal in strength and stiffness to No. 14 U.S. gauge sheet steel; and

(c) Be omitted on the pit side where compensating chains or ropes are attached to the counterweight.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05200 ~~((Which lift landings must be illuminated?))~~ Illumination of landings. All lift landings ~~((must))~~ shall be illuminated.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05210 ~~((What signs must be posted on landings and lifts?))~~ Signage. Each lift ~~((must))~~ shall have the following two signs:

(1) A "CAPACITY" sign permanently fastened in the lift car and on each landing. This sign ~~((must))~~ shall indicate the rated load of the lift in pounds and be made of metal with 2-inch high black letters on a yellow background.

(2) A "NO RIDERS" sign conspicuously and permanently fastened on the landing side of all hoistway gates (doors) and in the enclosure of each car. This sign ~~((must))~~ shall be made of metal with 2-inch high black letters on a red background.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05220 ~~((What electrical wiring standards apply to lifts?))~~ Electrical requirements. All electrical wiring, installations, and equipment in a hoistway, machine room or machinery space ~~((must))~~ shall conform to the National Electrical Code in effect at the time of installation or major alteration.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-05230 ~~((What safety regulations apply to))~~ Exposed equipment ~~((?))~~. All exposed gears, sprockets, sheaves, drums, ropes and chains ~~((must))~~ shall be guarded to protect against accidental contact as required by general safety and health standards adopted according to chapter 49.17 RCW.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-05240 ~~((What are the))~~ Minimum maintenance requirements ~~((for lifts?))~~. All owners, or designated owner representatives, of material lifts described in this chapter are responsible for the maintenance of their lifts and parts. Minimum maintenance requirements are:

(1) All lifts described in this chapter and their parts ~~((must))~~ shall be maintained in a safe condition. Maintenance, examinations, and safety tests are to be performed and documented to the applicable sections of WAC ~~((296-96-23601 through 296-96-23610; and))~~ 296-96-23605 and ASME A17.1/CSA B44, parts 8.6 and 8.11.

(2) All devices and safeguards that are required by this chapter ~~((must))~~ shall be maintained in good working order.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05260 ~~((When are))~~ **Inspections required**~~((?))~~. Inspections are required for each lift installation, alteration or relocation and ~~((must))~~ shall be conducted at the completion of the job before the lift is placed into service. The inspection ~~((must))~~ shall include a safety test at ~~((425))~~ 100 percent of rated load.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-05290 ~~((Under what conditions is a five year test administered?))~~ **Periodic tests**. A five-year test of the material lift car and counterweight safety devices ~~((must))~~ shall be conducted, and the test ~~((must))~~ shall be administered under the following conditions:

(1) Qualified people will conduct the test. A qualified person is either:

(a) An elevator mechanic licensed in the appropriate category for the conveyance being tested;

(b) The representative of a firm that manufactured the particular material lift, and who holds a current temporary mechanic's license in this state;

(c) The representative of a firm that manufactured the particular material lift who is working under the direct supervision of an elevator mechanic licensed in the appropriate category for the conveyance being tested.

(2) The car safety devices ~~((must))~~ shall be tested while the car is carrying a 100 percent rated load and the counterweight is at no load.

(3) A report of the test results ~~((must))~~ shall be ~~((submitted to the department for approval))~~ retained on-site for review by elevator personnel.

PART C2 - ~~((CONSTRUCTION, OPERATION, MAINTENANCE AND INSPECTION OF INCLINED PRIVATE RESIDENCE ELEVATOR FOR TRANSPORTING PERSON(S)))~~ PRIVATE RESIDENCE INCLINED ELEVATORS

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-07150 ~~((What are the construction requirements for))~~ **Guide rails, track supports and fastenings**~~((?))~~. (1) ~~((Guides, guide rails, guide rail brackets, splice plates, and fastenings must be made of steel or other metals conforming to the requirements of this section.~~

~~((2))~~ Guides, guide rails, guide rail brackets, and their fastenings and supports ~~((must))~~ shall, at the point of support, deflect 1/8 inch or less while resisting horizontal forces encountered during loading. When horizontal force is measured at a mid-point between brackets, guide rails ~~((must))~~ shall deflect 1/4 inch or less in any direction.

(2) Fixed, suspended cable guides may be used as a guide member(s). When used, the deflection is to be specified by the manufacturer and approved by a structural engineer licensed in the state of Washington.

~~((3))~~ The top and bottom of each guide or guide rail run must not allow a car and counterweight guiding members to travel beyond the guide rail ends.)

PART C3 - CONSTRUCTION, OPERATION, MAINTENANCE AND INSPECTION OF PRIVATE RESIDENCE INCLINED CONVEYANCES FOR TRANSPORTING ONLY PROPERTY

NOTE: New installations shall comply with ASME A17.1/CSA B44 5.4.

PART C4 - ~~((TEMPORARY))~~ PERSONNEL HOISTS

NOTE: All newly installed personnel hoists shall comply with ASSE/ANSI A10.4.

PART C5 - ADDITIONAL TYPES OF CONVEYANCES

Material Hoists

NOTE: New installations to comply with ANSI A10.5.

~~((PART C5 - ADDITIONAL TYPES OF CONVEYANCES))~~

Belt Manlifts

NOTE: New installations of belt manlifts shall comply with current adopted version of ASME A90.1.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-11080 ~~((Under what conditions is a five year test administered?))~~ **Five-year test**. A five-year test of the belt manlift ~~((must))~~ shall be conducted, and the test ~~((must))~~ shall be administered under the following conditions:

(1) Qualified people will conduct the test. A qualified person is either:

(a) An elevator mechanic licensed in the appropriate category of the conveyance being tested;

(b) The representative of a firm that manufactured the particular belt manlift who holds a current temporary mechanic's license in this state; or

(c) The representative of a firm that manufactured the particular belt manlift who is working under the direct supervision of an elevator mechanic licensed in the appropriate category of the conveyance being tested.

(2)(a) The up capacity of the belt manlift ~~((must))~~ shall be tested with ~~((two hundred pounds))~~ 200 lbs. on each horizontal step. During the up-run portion of the test the belt manlift ~~((must))~~ shall not show appreciable slip of the belt when standing or running at rated speed.

(b) The down capacity of the belt manlift ~~((must))~~ shall be tested with ~~((two hundred pounds))~~ 200 lbs. on each horizontal step. During the down-run portion of the test the belt manlift ~~((must))~~ shall not show appreciable slip of the belt when standing or running at the rated speed.

The brake shall stop and hold the belt with test load within a maximum of ~~((twenty four inches))~~ 24 in. of travel.

(3) After the five-year test has been performed a tag indicating the date of the test and name of the company perform-

ing the test ~~((must))~~ shall be attached in a visible area of the drive motor machine.

~~((Electric Manlifts))~~ **Special Purpose Personnel Elevators**

NOTE: New installations shall comply with ASME A17.1/CSA B44, Section 5.7.

~~((Hand-Powered Manlifts))~~ **Hand Elevators**

NOTE: New installations shall comply with ASME A17.1/CSA B44, Section 4.3.

Casket Lifts

NOTE: These conveyances are intended to be used only in mortuaries where moving caskets is necessary. The installation of new lifts for this purpose shall comply with ASME A17.1/CSA B44, Part 7.

Boat Launching Elevators

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-18010 ~~((What are the definitions for boat launching elevators?))~~ **Definition.** "Boat launching elevator" is a device that:

- (1) Is equipped with a car or platform;
- (2) Moves in guides in a substantially vertical direction;
- (3) Serves to connect one or more floors or landings of a boat launching structure with a beach or water surface; and
- (4) Is used for carrying or handling boats in which people ride.

"Boat launching structure" is any structure that houses and supports any boat launch elevator.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-18011 ~~((What are the))~~ **Minimum maintenance requirements** ~~((for boat launch elevators?))~~. Owners of boat launch elevators are responsible for ensuring that:

- (1) Elevators and their parts are maintained in a safe condition; and
- (2) All devices and safeguards required by these regulations are maintained in good working order.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-18020 ~~((Must boat launching elevator cars and platforms be enclosed?))~~ **Car and platform enclosures.** All boat launching elevator cars or platforms ~~((must))~~ shall be enclosed to a height of at least 6 feet from the floor on all sides where there are no hoistway doors or gates. Enclosures may be built as solid panels or open work which will reject a ~~((two inch))~~ 2 in. diameter ball.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-18030 ~~((What))~~ **Electrical wiring requirements** ~~((apply to boat launching elevators?))~~. (1)

All electric wiring used in boat launching elevators, except the traveling cable, ~~((must))~~ shall be enclosed in rigid metal conduit.

(2) The traveling cable, which is required between the car mounted terminal stopping switch and the hoistway, ~~((must))~~ shall be made of flexible, nonmetallic, moisture-retardant, flame-retardant material.

(3) All electrical outlets, switches, junction boxes and fittings used in boat launching elevators ~~((must))~~ shall be ~~((weather proof))~~ weatherproof.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-18040 ~~((What type of brakes must be used on boat launching elevators?))~~ **Brakes.** All electric boat launching elevators ~~((must))~~ shall be equipped with effective brakes that are applied by springs and released electrically. Brake capacity ~~((must))~~ shall be sufficient to hold the elevator and its rated load at rest.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-18050 ~~((What types of))~~ **Stop switches and protective devices** ~~((are required on boat launching elevators?))~~. (1) All electric boat launching elevators ~~((must))~~ shall be equipped with:

(a) A bottom terminal stop switch operated by the traveling cable and a float or some other department approved mechanism;

(b) A top terminal stop switch that is located in the hoistway and is operated either by a cam attached to the car or some other department approved mechanism; and

(c) Key-operated, continuous pressure type operating switches that are located outside the hoistway but within sight of the elevator car or platform.

(2) All boat launching elevators operated by a winding drum, ~~((must))~~ shall be equipped with a final stop switch that is located on and operated directly by the driving machine. Chains, ropes or belts ~~((must))~~ shall not drive final stop switches.

(3) All boat launching elevators driven by a polyphase alternating current motor ~~((must))~~ shall be equipped with the following approved relays:

(a) A reverse phase relay that prevents the driving machine motor from starting when either the phase rotation is in the wrong direction or there is a phase failure; and

(b) A main line relay or contact that automatically stops power to the driving machine motor and brake, activating the brake when any safety device is activated.

(4) Hand rope controls ~~((must))~~ shall not be used on any boat launch elevator.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-18060 ~~((When must hoisting cables be reshackled or refastened?))~~ **Reshacking and refastening of hoisting cables.** The load end of a hoisting cable on all

boat launching elevators ~~((must))~~ shall be reshackled or refastened every 12 months.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-18070 ~~((What requirements apply to))~~ **Hoistway gates and doors** ~~((?))~~. (1) All boat launching elevators ~~((must))~~ shall have gate-protected hoistway entrances at every landing except those landings located on the beach or at the water surface.

(2) All gates ~~((must))~~ shall comply with the following minimum requirements:

(a) There ~~((must))~~ shall be a full-bodied, balanced type safety gate that protects the full width of the hoistway and ~~((must))~~ shall hang, at all points along the gate, within ~~((two inches))~~ 2 in. of the landing threshold;

(b) The minimum gate height on top landings is 42 inches and 66 inches on all intermediate landings;

(c) Gates ~~((must))~~ shall be constructed of either metal or wood;

(d) Gates ~~((must))~~ shall be capable of withstanding a lateral pressure, applied at any point, of 250 ~~((pounds))~~ lbs. without breaking, becoming permanently deformed or being displaced from their guides or tracks;

(e) The openings in grille, lattice or other openwork designed gate bodies, ~~((must))~~ shall reject a ~~((two-inch))~~ 2 in. diameter ball; and

(f) Gates ~~((must))~~ shall be equipped with a department approved combination electric contact and mechanical lock.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-18080 ~~((Must boat launching elevator hoistways be enclosed?))~~ **Hoistway enclosures.** The sides of elevator hoistways adjacent to a dock area platform, walkway or ramp ~~((must))~~ shall be enclosed. The enclosures ~~((must))~~ shall comply with the hoistway safety gate dimension and pressure requirements in WAC 296-96-18070.

Mechanized Parking Garages ~~((Equipment))~~

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-20005 ~~((What national safety codes has the department adopted for mechanized parking garage equipment?))~~ **Applicable codes and standards.** The department has adopted USASI Standard ANSI/ASME A113.1-1964 "Safety Code for Mechanized Parking Garage Equipment."

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-20010 ~~((What are the))~~ **Minimum maintenance requirements** ~~((for mechanized parking garage equipment?))~~. Owners of mechanized parking garage equipment are responsible for ensuring that:

(1) Elevators and parts are maintained in a safe condition; and

(2) All devices and safeguards required by these regulations are maintained in good working order.

PART D - REGULATIONS FOR EXISTING ELEVATORS, DUMBWAITERS, AND ESCALATORS

~~((Regulations for Existing Electric Elevators, Direct Plunger and Roped Hydraulic Elevators, Escalators used to transport passengers, Electric and Hand-powered Dumbwaiters, Hand-powered Elevators, Inclined Stairway Chairlifts, Inclined and Vertical Wheelchair Lifts, and Sidewalk Elevators))~~

NOTE: ~~The following rules set the minimum standard for existing elevators, dumbwaiters, and escalators, and, where applicable, alterations.)~~

NOTE: This part provides the minimum requirements for existing conveyances. Application of Part D rules apply where a conveyance was not provided, or required to be provided, with a device or system when originally installed or altered. Where Part D does not cover a particular device or system, refer to ASME A17.3.

Section 1

Compliance Time Frames

NEW SECTION

WAC 296-96-23000 Compliance time frames. Time frames for compliance with Part D or ASME A17.3 (or combination thereof) as applicable.

(1) These time frames do not apply to maintenance and periodic testing as required by ASME A17.1/CSA B44, Section 8.6.

(2) Where a single unit or group of units is required to comply with multiple requirements on one or more conveyances, the owner shall be granted sufficient time in order to comply without penalty.

(3) The owner shall submit a written plan and projected time frame for which to comply.

(4) Where conveyances are targeted for alterations, the owner may delay implementation of the requirements of Part D or ASME A17.3 (or combination thereof) until such time when the alteration is permitted by the department.

Section 2

Additional Requirements

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-23100 ~~((Are keys required to be on-site?))~~ **Elevator operating keys.** ~~((Yes:~~

(1) ~~The keys to the machine room and the keys that are necessary to operate the elevator must be located in a locked key retainer box in the elevator lobby; or located by machine room doors at no more than six feet above the floor, provided access to the key box doesn't require passage through locked doors. The key retainer box must be:~~

- (a) Readily accessible to authorized personnel;
- (b) Clearly labeled "Elevator"; and
- (c) Equipped with a 1-inch cylinder cam lock key #39504.

Further:

Keys for access to elevator machine rooms and for operating elevator equipment must be tagged and kept in the key box.

The key box must contain all keys necessary for inspections of the elevator.

Mechanical hoistway access devices must be kept in the key box or machine room.

(2) The department may approve existing retainer boxes provided they are:

- (a) Readily accessible to authorized personnel;
- (b) Clearly labeled "Elevator"; and
- (c) The lock must be either a 1-inch cylinder cam lock key #39504 or a combination lock. The combination for the lock must be on record with the department.

Deviations from this section due to security concerns must be approved by the department via a variance request.

Note: The cities of Seattle and Spokane may designate their own options for keys and lock box arrangement via their rule processes.

(3) ASME A17.1 2.27.8 Local fire or building code authorities may specify the requirements for a uniform keyed lock box and its location to contain the necessary keys (this will be in addition to the requirements listed in subsection (1) or (2) of this section). Where required, a lock box, including its lock and other components, shall conform to the requirements of UL 1037 (see Part 9). These keys shall be kept on the premises in a location readily accessible to firefighters and emergency personnel, but not where they are available to the public.

(4) ASME A17.1 Part 8 contains general requirements for new and existing equipment. Except reference ASME A17.1 2.27.8 shall not apply to phase one and two key switches installation on existing elevators installed prior to the adoption of this code unless required by the local code official.) Refer to WAC 296-96-02580.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-23101 ((What are the conveyance number requirements?)) Identification numbers. ((Conveyance numbers shall be permanently painted or etched to the controller or if space does not allow, the disconnect switch. The numbers shall be legible and at a minimum of one half inch in height or as directed by the authority having jurisdiction.)) Where identification numbers are not provided for multiple conveyances within the same building, the equipment shall be required to comply with ASME A17.1/CSA B44, Section 2.29.

Subpart I

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23115 ((What safety requirements apply to inspecting and maintaining)) Access to overhead sheaves((?)). (1) Overhead sheaves ((spaces requiring inspection and maintenance must be located so adequate access and decking is available to insure the safety of inspection and maintenance personnel)) shall be provided with a means of access for inspections and maintenance.

(2) Guardrails ((must)) shall be installed where working platform or decking is provided and does not cover the complete hoistway.

(3) Guardrails ((and deck supports must be similar to those required for the top of an elevator car and may be made of either wood or metal compatible with the existing hoistway construction)) shall comply with ASME A17.1/CSA B44, Section 2.10.

(4) Inspections and maintenance may be performed from the top of ((an)) the elevator car ((if)) providing access is attainable without the use of a ladder ((is not required to perform these functions)).

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-23116 ((What requirements apply to)) Car numbers((?)). In any building with more than one elevator, numbers at least ((two inches)) 2 in. in height identifying each car ((must)) shall be located at the main lobby entrance, inside the car, on the machine, and on the disconnect switch and if the conveyance has a walk-in pit, numbers shall also be installed on the buffer stands. Elevators installed in compliance with ASME A17.1/CSA B44, 2.29 are exempt from this rule.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-23117 ((What requirements apply to top of)) Car top railings for traction elevators((?)). A standard railing ((must)) shall be installed on the top of all traction elevators where the perpendicular distance between the edges of the car top and the adjacent hoistway enclosure exceeds ((twelve inches)) 12 in. horizontal clearance. The railing shall be substantially constructed of metal and shall consist of a top rail, intermediate rail and post. The top rail shall have a smooth surface and the upper surface shall be located at a vertical height of ((forty-two inches)) 42 in. The intermediate rail shall be located approximately halfway between the top rail and the car top. There ((must)) shall be a minimum of ((six inches)) 6 in. of clearance above the top rail when the car is at its furthest point of travel. If the vertical clearance from the car top to the hoistway enclosure, including gravity-stopping distance, is less than 48 ((inches)) in. away, the top handrail height may be reduced to 42 ((inches)) in. plus or minus 3 ((inches)) in. If the clearances will not allow a ((39-inch)) 39 in. handrail, do not install the top of car

railing, instead provide signage required by WAC 296-96-23119.

EXEMPTION: This requirement does not apply to electric manlifts.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-23118 ~~((What requirements apply to top of))~~ **Car top railings for hydraulic elevators ((in unenclosed hoistways?))**. A standard railing ((must)) shall be installed on the top of hydraulic elevators installed in unenclosed hoistways. The railing shall be substantially constructed of metal and shall consist of a top rail, intermediate rail and post. The top rail shall have a smooth surface and, the upper surface shall be located at a vertical height of 42 ((inches)) in. plus or minus 3 ((inches)) in. The intermediate rail shall be located approximately halfway between the top rail and the car top. There ((must)) shall be a minimum of ((six inches)) 6 in. of clearance above the top rail when the car is at its furthest point of travel on the mechanical stop. If the vertical clearance of 6 ((inches)) in. cannot be achieved, do not install car top railing, instead provide signage required by WAC ((296-96-119 [WAC 296-96-23119])) 296-96-23119.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-23119 ~~((What signage requirements apply to traction elevators with minimal overhead clearance?))~~ **Low overhead signs.** Elevators that do not have a minimum of ((twenty four inches of)) 24 in. clearance from the crosshead, or any equipment mounted on the crosshead, to the lowest member of the overhead structure in the hoistway when the car has reached its maximum upward movement ((must have)) shall be provided with caution signage. A sign ((must)) shall be located near the top of car inspection station. An additional sign ((must)) shall be posted on the hoistway wall. This sign ((must)) shall be visible when accessing the car top. The sign shall consist of alternating ((four inch)) 4 in. diagonal red and white stripes and ((must)) shall clearly state "danger low clearance" in lettering not less than ((four inches)) 4 in. in height.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-23122 ~~((What type of lighting must be installed in machine rooms and machinery space?))~~ **Machine room and machinery space illumination.** ~~((Permanent electric lighting must be provided in all machine rooms and machinery spaces. All installations prior to 7/1/2004 require illumination to be at least 10 foot-candles at floor level.))~~ Elevators installed under the 1996 and earlier editions of ASME A17.1 shall have a minimum of 10 foot-candles of illumination at floor level within the working areas in machine rooms and machinery spaces.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23123 ~~((What type of service outlets must be installed in elevator cars, hoistways and machinery spaces?))~~ **Duplex and simplex receptacles.** ((Service outlets)) Duplex and simplex receptacles, where provided, ((must)) shall be permanently grounded.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23126 ~~((What protective measures should be taken in hoistways, machine rooms and machinery spaces to insure safety?))~~ **Guarding of equipment.** (1) Where feasible, gears, sprockets, sheaves, cables, tapes, belts and chains ((must)) shall be fitted with suitable guards to prevent accidental contact((, where feasible)).

(2) Openings in machine room floors above the hoistway must be guarded to prevent tools from falling into the hoistway below.

(3) Open grating in machine room floors shall reject a ball 1/2 in. in diameter.

(4) Ventilation grids where exposed to the hoistway below ((must)) shall be firmly ((bolted or secured)) fastened to prevent accidental removal and ((must)) shall be fitted with 1/2 ((inch)) in. wire mesh under the grid.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23130 ~~((What requirements apply to))~~ **Pit access((?)).** ~~((1) Pits must be accessible to all authorized personnel.~~

~~((2) Access doors, if provided, must be kept closed and locked.~~

~~((3))~~ Access ladders ((must)) shall be installed in elevator pits 3 ((feet)) ft. or deeper. Where constraints prohibit the installation of a pit ladder conforming to ASME A17.1/CSA B44, 2.2.4.2, a retractable ladder shall be permitted to be installed in accordance with 2.2.4.2.7 and 2.2.4.2.8 of ASME A17.1/CSA B44.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-23132 ~~((What lighting requirements apply to pits?))~~ **Pit illumination and receptacles.** (1) Light fixtures shall be installed in all pits.

(a) Installations prior to 7/1/2004 require a permanent lighting fixture producing at least 5 foot-candles as measured in the working areas at the pit floor ((must be installed in all pits)).

((2)) (b) A light switch ((must)) shall be installed and ((must)) shall be accessible from the pit access door.

((3)) (2) A permanent ((grounded outlet must)) GFCI duplex receptacle shall be provided in all pits.

(3) Where more than one elevator shares a common pit, a GFCI duplex receptacle shall be located in the area below each elevator.

~~((Section 4~~~~Protection of Space Below Hoistways))~~~~((Section 5~~~~Hoistway Entrances))~~

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23158 ~~((What requirements apply to elevator floor numbers?))~~ **Identification of floors.** ~~((Elevator hoistways must have floor numbers at least 4 inches high and placed on the walls and/or doors of hoistways at intervals so that a person in a stalled elevator, upon opening the car door 4 inches, could determine the floor position.))~~ Hoistways shall be provided with floor numbers complying with ASME A17.1/CSA B44 2.29.2.

Subpart II**Existing Elevators**

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23200 ~~((What is the scope of Subpart H?))~~ **Scope.** Subpart II, Machinery and Equipment for Electric Elevators, is a minimum standard for all existing electric elevators. It applies to other equipment only as referenced in the applicable Subpart.

~~((Section 1~~~~Buffers and Bumpers))~~~~Section ((2~~~~Counterweights)) 1~~**Compensating Means Connections**

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23205 ~~((What requirements apply to counterweights?))~~ **Compensating means.** ~~((On rod type counterweights, the rod nuts must be cotter pinned and the tie rods must be protected so that the head weight cannot crush the tie rods on buffer engagement.~~

~~(1) The weights must be protected so that they cannot be dislodged.~~

~~(2))~~ Compensating chains or ropes ~~((must))~~ shall be fastened to the counterweight ~~((from))~~ frame directly or to a bracket fastened to the frame and ~~((must))~~ shall not be fastened to the tie rods.

~~Section ((12)) 2~~**Suspension Systems and Their Connections**

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23283 ~~((What requirements apply to rope))~~ **Missing data tags** ~~((?))~~, ~~((At each rope renewal, a new metal data tag must be securely attached to one of the wire rope fastenings. Rope data tags must be durable and readily legible. The height of letters and figures must be no less than 1/16 inch. This data tag must bear the following information:~~

- ~~(1) The diameter in inches;~~
- ~~(2) The manufacturer's rated breaking strength;~~
- ~~(3) The grade of material used;~~
- ~~(4) The month and year the ropes were installed;~~
- ~~(5) Whether nonpreformed or preformed;~~
- ~~(6) Construction classification~~
- ~~(7) Name of the person or firm who installed the ropes;~~
- ~~(8) Name of the manufacturer of the rope;~~
- ~~(9) The number of ropes; and~~
- ~~(10) The date on which the rope was resoeketed or other types of fastening changed.))~~ In the event an existing data tag cannot be located, a replacement tag shall be created specifying the date of verification of known information.

Section 3**Absence of Safety Bulkheads**

AMENDATORY SECTION (Amending WSR 04-15-104, filed 7/20/04, effective 8/20/04)

WAC 296-96-23303 ~~((What requirements apply to))~~ **Hydraulic elevators without safety bulkheads** ~~((?))~~, (1) Oil levels ~~((must))~~ shall be monitored and tracked in a log kept in the machine room.

(2) The log ~~((must))~~ shall contain the date ~~((the))~~ oil was added, the reason for the loss of oil, and the amount of oil added.

(3) If the reason for the loss of oil cannot be determined, the unit must be immediately taken out of service and ~~((the cylinder must be replaced))~~ the tests specified in 8.6.5.14.1 and 8.6.5.14.2 shall be performed.

~~((Note: This section becomes effective August 20, 2004.))~~

~~Subpart ((V1)) III~~**Alterations, Repairs, Maintenance, and Testing**

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-23605 ~~((ASME A17.1 8.6.4 Maintenance))~~ **Examination** ~~((and testing of elevators))~~ **of standard application material lifts, special purpose lifts, electric manlifts, and hand elevators.** (1) ~~((The maintenance.))~~ Examination ~~((and testing of electric elevators shall conform to ASME A17.1 8.6.1 through 8.6.4 and the applicable see-~~

tions of 8.11.2 as amended below.) standard application material lifts, special purpose lifts, electric manlifts and hand elevators shall conform to the following:

(a) ((ASME A17.1-8.11.2.1 Periodic)) Annual examination requirements for electrical elevators. Service providers' shall furnish documentation to include the following ((when identifying)) components or systems((, or both,)) that shall be examined if installed.

(b) ((ASME A17.1-8.11.2.1.1)) Inside car:

- (i) Door reopening device;
- (ii) Stop switches;
- (iii) Operating control devices*;
- (iv) ((Car floor and landing sill**;
- (v)) Car auxiliary lighting**;
- ((vi)) (v) Car emergency signal;
- ((vii)) (vi) Car door or gate;
- ((viii)) (vii) Door closing force;
- ((ix) Power closing of doors or gates;
- (x) Power opening of doors or gates;
- (xi) Car enclosure*;
- (xii) Emergency exit;
- ((xiii)) (viii) Ventilation*;
- ((xiv) Rated load, platform area, and data plate*;
- (xv)) (ix) Restricted opening of car or hoistway doors;
- ((xvi)) (x) Car ride*(;
- (xvii) Door monitoring systems); and
- ((xviii)) (xi) Stopping accuracy*.

(c) ((ASME A17.1-8.11.2.1.2)) Machine room/control room:

- (i) ((Equipment exposure to weather;
- (ii) Means of access**;
- (iii) Headroom**;
- (iv) Means necessary for tests;
- (v) Inspection and test panel;
- (vi) Lighting and receptacles**;
- (vii) Enclosure of machine room/control room**;
- (viii) Ventilation;
- (ix) Pipes, wiring, and ducts**;
- (x)) Guarding of equipment;
- ((xi) Numbering of elevators, machines, and disconnect switches;
- (xii) Maintenance path and maintenance clearance**;
- ((xiii)) (ii) Stop switch;
- ((xiv)) (iii) Disconnecting means and control;
- ((xv)) (iv) Controller wiring, fuses, grounding, etc.;
- ((xvi)) (v) Machinery supports and fastenings;
- ((xvii)) (vi) Drive machine brake;
- ((xviii)) (vii) Traction drive machines;
- ((xix)) (viii) Gears, bearings, and flexible connections;
- ((xx)) (ix) Winding drum machine;
- ((xxi) Belt or chain drive machine;
- ((xxii)) (x) Absorption of regenerated power;
- ((xxiii)) (xi) Traction sheaves;
- ((xxiv)) (xii) Secondary and deflector sheaves;
- ((xxv)) (xiii) Rope fastenings;
- ((xxvi)) (xiv) Operating devices;
- ((xxvii)) (xv) Code data plate**;
- ((xxviii)) (xvi) AC drives from a DC source;
- ((xxix)) (xvii) Slack rope devices;
- ((xxx)) (xviii) Wiring diagrams; and

((xxxii)) (xix) Rope retainers or restraints ((for seismic risk zones; and

(xxxii) Seismic and displacement switches)).

(d) ((ASME A17.1-8.11.2.1.3)) Top-of-car:

- (i) Top-of-car stop switch;
 - (ii) Car top light and outlet;
 - (iii) Top-of-car operating device working platforms;
 - (iv) ((Top-of-car clearance and refuge space**;
 - (v) Top counterweight clearance;
 - (vi)) Car, overhead, and deflector sheaves;
 - ((vii)) (v) Crosshead data plate**;
 - ((viii) Top emergency exit;
 - (ix) Floor and emergency identification numbering**;
 - (x) Hoistway construction**;
 - (xi) Hoistway smoke control**;
 - (xii) Pipes, wiring, and ducts**;
 - (xiii) Windows, projections, recesses, and setbacks**;
 - (xiv) Hoistway clearance;
 - (xv) Multiple hoistways**;
 - (xvi)) (vi) Traveling cables and junction boxes;
 - ((xvii)) (vii) Door and gate equipment;
 - ((xviii)) (viii) Car frame and stiles;
 - ((xix)) (ix) Guide rails fastening and equipment;
 - ((xx)) (x) Governor rope;
 - ((xxi)) (xi) Governor releasing carrier;
 - ((xxii)) (xii) Fastening and hitch plate;
 - ((xxiii)) (xiii) Suspension means;
 - ((xxiv)) (xiv) Compensation means;
 - ((xxv) Machinery space/control space;
 - (xxvi)) (xv) Working areas on the car top;
 - (A) Means to prevent unexpected movement.
 - (B) Unexpected car movement device.
 - (C) Operating instructions for unexpected car movement device.
 - (D) Operating instructions for egress and reentry procedure;
 - ((xxvii) Equipment exposure to weather;
 - ((xxviii)) (xvi) Machinery supports and fastenings;
 - ((xxix)) (xvii) Guarding of exposed auxiliary equipment;
 - ((xxx) Anchoring of beams and supports in seismic risk zone 2 or greater;
 - (xxxii)) (xviii) Rope retainers and snag guards ((in seismic risk zone 2 or greater));
 - ((xxxiii)) (xix) Position restraints ((in seismic risk zone 2 or greater;
 - (xxxiii) Car and counterweight guide rails system in seismic risk zone 2 or greater;
 - (xxxiv) For seismic risk zones 2 or greater, horizontal clearance for car and counterweight, snag point clearance and rail fastening;
 - (xxxv) Seismic risk zone 2 or greater rope retainers/restraints and snag guards;
 - (xxxvi) Seismic risk zone 2 or greater rope retainer and snag guard for compensating ropes or chains and compensating tension sheave fastening; and
 - (xxxvii) Sheaves with nonmetallic groove surfaces)).
- (e) ((ASME A17.1-8.11.2.1.4)) Outside hoistway:
- (i) Car platform guard;
 - (ii) Hoistway doors;

- (iii) Vision panels*;
- (iv) Hoistway door locking devices;
- (v) Access to hoistway;
- (vi) ~~(Sequence operation;~~
- ~~(vii) Hoistway enclosure;~~
- ~~(viii) Elevator parking devices;~~
- ~~(ix)) Emergency and access hoistway openings;~~
- ~~((x)) (vii) Separate counterweight hoistway;~~
- ~~((xi) Means necessary for tests;~~
- ~~(xii) Inspection and test panel (ASME A17.1-2.7.6.5);~~
- ~~inspection operation (ASME A17.1-2.26.1.4.1), and inspec-~~
- ~~tion operation with open door circuits; and~~
- ~~(xiii) Equipment exposure to weather.~~
- ~~(f) ASME A17.1-8.11.2.1.5)) (f) Pit:~~
 - (i) Pit access, lighting, stop switch and condition;
 - (ii) Bottom clearance and runby;
 - (iii) Traveling cables;
 - (iv) Compensating chains, ropes, and sheaves;
 - (v) Car frame and platform;
 - (vi) ~~(Machinery space/control space;~~
 - ~~(vii)) Working areas in the pit;~~
 - (A) Means to prevent unexpected movement.
 - (B) Unexpected car movement device.
 - (C) Operating instructions for unexpected car movement device.
 - (D) Operating instructions for egress and reentry procedure;
 - ~~((viii) Equipment exposure to weather;~~
 - ~~(ix)) (vii) Machinery supports and fastenings;~~
 - ~~((x)) (viii) Guarding of exposed auxiliary equipment;~~
- and
- ~~((xi)) (ix) Pit inspection operation.~~
- ~~((g) ASME A17.1-8.11.2.1.7 Working platform:~~
 - (i) Working platforms; operating instructions;
 - (ii) Retractable stops; retractable stop electrical device;
- and
- ~~(iii) Inspection operation.))~~

Note: (*) May be combined with other items on the log.

(**) A visual component that must be reported to the owner.

(2) ~~((The maintenance, examination, and testing of hydraulic elevators shall conform to ASME A17.1-8.6.1 through ASME A17.1-8.6.3 and the applicable requirements of ASME A17.1-8.6.4, ASME A17.1-8.6.5, and ASME A17.1-8.11.3, as amended below.~~

~~(a) Periodic)) Annual examination requirements for hydraulic elevators. Service providers shall furnish documentation to include the following ((when identifying)) components or systems((, or both,)) that shall be examined if installed.~~

- ~~((b) ASME A17.1-8.11.3.1.1)) (a) Inside the car:~~
 - (i) Door reopening device;
 - (ii) Stop switches;
 - (iii) Operating control devices*;
 - (iv) ~~((Sill and car floor**;~~
 - ~~(v)) Car auxiliary lighting ((and receptacles**));~~
 - ~~((vi)) (v) Car emergency signal;~~
 - ~~((vii)) (vi) Car door or gate;~~
 - ~~((viii)) (vii) Door closing force;~~
 - ~~((ix) Power closing of doors or gates;~~

- ~~(x) Power opening of doors or gates; car enclosure*;~~
- ~~(xi)) (viii) Emergency exit;~~
- ~~((xii)) (ix) Ventilation*;~~
- ~~((xiii)) (x) Signs and operating device symbols;~~
- ~~((xiv) Rated load, platform area, and data plate;~~
- ~~(xv)) (xi) Restricted opening of car or hoistway doors;~~
- ~~((xvi)) (xii) Car ride*((;~~
- ~~(xvii) Door monitoring system)); and~~
- ~~((xviii)) (xiii) Stopping accuracy*.~~
- ~~((e) ASME A17.1-8.11.3.1.2)) (b) Machine room/con-~~
- ~~trol room:~~
 - (i) ~~((Equipment exposure to weather;~~
 - ~~(ii) Means of access**;~~
 - ~~(iii) Headroom**;~~
 - ~~(iv) Means necessary for tests;~~
 - ~~(v) Inspection and test panel;~~
 - ~~(vi) Lighting and receptacles**;~~
 - ~~(vii) Enclosure of machine room/spaces and control~~
 - ~~room/spaces**;~~
 - ~~(viii) Ventilation and heating;~~
 - ~~(ix) Pipes, wiring, and ducts**;~~ guarding of equipment;
 - ~~(x) Numbering of elevators, machines, and disconnect~~
 - ~~switches;~~
 - ~~(xi) Maintenance path and maintenance clearance**;~~
 - ~~(xii)) Stop switch;~~
 - ~~((xiii)) (ii) Disconnecting means and control;~~
 - ~~((xiv)) (iii) Controller wiring, fuses, grounding, etc.;~~
 - ~~((xv)) (iv) Hydraulic power unit;~~
 - ~~((xvi)) (v) Tanks**((;~~
 - ~~(xvii) Recycling operation)); and~~
 - ~~((xviii)) (vi) Wiring diagrams.~~
 - ~~((d) ASME A17.1-8.11.2.1.3)) (c) Top-of-car:~~
 - (i) Top-of-car stop switch;
 - (ii) Car top light and outlet;
 - (iii) Top-of-car operating device and working platforms;
 - (iv) ~~((Top-of-car clearance and refuge space**;~~
 - ~~(v)) Top emergency exit;~~
 - ~~((vi) Floor and emergency identification numbering**;~~
 - ~~(vii) Hoistway construction**;~~
 - ~~(viii) Hoistway smoke control**;~~
 - ~~(ix) Pipes, wiring, and ducts**;~~
 - ~~(x) Windows, projections, recesses, and setback**;~~
 - ~~(xi) Hoistway clearances**;~~
 - ~~(xii) Multiple hoistways**;~~
 - ~~(xiii)) (v) Traveling cables and junction boxes;~~
 - ~~((xiv)) (vi) Door and gate equipment;~~
 - ~~((xv)) (vii) Car frame and stiles;~~
 - ~~((xvi)) (viii) Guide rails fastening and equipment;~~
 - ~~((xvii)) (ix) Governor rope;~~
 - ~~((xviii)) (x) Wire rope fastening and hitch plate;~~
 - ~~((xix)) (xi) Suspension rope;~~
 - ~~((xx)) (xii) Slack rope device;~~
 - ~~((xxi)) (xiii) Traveling sheave;~~
 - ~~((xxii)) (xiv) Crosshead data plate**((;~~
 - ~~(xxiii) Equipment exposure to weather;~~
 - ~~(xxiv) Machinery supports and fastenings)); and~~
 - ~~((xxv)) (xv) Guarding of equipment.~~
 - ~~((e) ASME A17.1-8.11.3.1.4)) (d) Outside hoistway:~~
 - (i) Car platform guard;
 - (ii) Hoistway doors;

- (iii) Vision panels*;
- (iv) Hoistway door locking devices;
- (v) Access to hoistway; and
- ~~((vi) Power closing of hoistway doors;~~
- ~~(vii) Sequence operation;~~
- ~~(viii) Hoistway enclosure*;~~
- ~~(ix) Elevator parking devices;~~
- ~~(x)) (vi) Emergency doors in blind hoistways;~~
- ~~((xi) Inspection and test panel (ASME A17.1-3.7.1 and ASME A17.1-2.7.6.5), inspection operation (ASME A17.1-2.26.1.4.1), and inspection operation with open door circuits (ASME A17.1-2.26.1.5); and~~
- ~~(xii) Equipment exposure to weather.~~
- (f) ASME A17.1-8.11.3.1.5)) (c) Pit:
 - (i) Pit access, lighting, stop switch, and condition;
 - (ii) Bottom clearance(;) and runby(, and minimum refuge space*);
 - (iii) Plunger and cylinder;
 - (iv) Traveling cables;
 - (v) Car frame and platform;
 - (vi) Supply piping;
 - (vii) Governor rope tension device;
 - ~~(viii) ((Equipment exposure to weather;~~
 - ~~(ix)) Machinery supports and fastenings;~~
 - ~~((x)) (ix) Guarding of exposed auxiliary equipment(;~~
 - ~~(xi) Pit inspection operation; and~~
 - ~~(xii) Seismic overspeed valve and pipe support)).~~

Note: (*) May be combined with other items on the log.

(**) A visual component that must be report to the owner.

~~((g) If it is determined the hydraulic cylinders system is not being maintained per ASME A17.1-8.6.5.7 and ASME A17.1-8.6.5.14, cylinders installed below ground shall conform to ASME A17.1-3.18.3.4 or to ASME A17.1-8.6.5.8(a) or ASME A17.1-8.6.5.8(b).~~

~~(h) The relief valve adjustment shall be examined to ensure that the seal is intact. If the relief valve seal is not intact, checks shall be conducted in accordance with ASME A17.1-8.6.5.14.1 and the state hydraulic overpressure form shall be used to document compliance. The form shall be left on-site and located in the machine room in a conspicuous location.~~

~~(3) The maintenance and examination of dumbwaiter, rack and pinion, screw column, hand, incline, limited use limited application, private residence*, power sidewalk, rooftop, special purpose, and shipboard and construction elevators shall conform to ASME A17.1-8.6.1 through ASME A17.1-8.6.3 and the applicable requirements of ASME A17.1-8.6 and ASME A17.1-8.11 as amended in this chapter.~~

Note: (*) Chapter 70.87 RCW exempts private resident elevators from periodic inspections, but these maintenance guidelines provide the proper outline for the level of service that should be provided.

~~(4) The maintenance of material lifts without automatic transfer devices, hand pull and electric manlift, residential incline elevators shall conform to ASME A17.1-8.6.1 through ASME A17.1-8.6.3 and the applicable requirements of ASME A17.1-8.6 and ASME A17.1-8.11, as amended in this chapter*.~~

~~Maintenance, examination and test requirements shall only apply to the corresponding installation requirements in chapter 296-96 WAC.~~

Note: (*) Chapter 70.87 RCW exempts private resident elevators from periodic inspections, but these maintenance guidelines provide the proper outline for the level of service that should be provided.

~~(5) Periodic examination requirements for conveyances outlined in WAC 296-96-23605 (3) and (4). Service providers shall include the following when identifying components or systems, or both, that shall be examined if installed:~~

~~(a) ASME A17.1-8.11.5.1 Sidewalk elevator, WAC 296-96-23605 (1) or (2).~~

~~(b) ASME A17.1-8.11.5.2 Private resident elevators, WAC 296-96-23605 (1) or (2)*.~~

~~(c) ASME A17.1-8.11.5.3 Hand elevators, WAC 296-96-23605(1).~~

~~(d) ASME A17.1-8.11.5.4 Dumbwaiters, WAC 296-96-23605 (1) or (2).~~

~~(e) ASME A17.1-8.11.5.5 Material lifts and dumbwaiters with automatic transfer devices, WAC 296-96-23605 (1) or (2).~~

~~(f) ASME A17.1-8.11.5.6 Special purpose personnel elevators, WAC 296-96-23605 (1) or (2).~~

~~(g) ASME A17.1-8.11.5.7 Inclined elevators, WAC 296-96-23605 (1)(a) through (2) or (3).~~

~~(h) ASME A17.1-8.11.5.8 Shipboard elevators, WAC 296-96-23605 (1) or (2).~~

~~(i) ASME A17.1-8.11.5.9 Screw column elevators, WAC 296-96-23605 (1) or (2).~~

~~(j) ASME A17.1-8.11.5.10 Rooftop elevators, WAC 296-96-23605 (1) or (2).~~

~~(k) ASME A17.1-8.11.5.11 Rack and pinion elevators, WAC 296-96-23605 (1) and (2).~~

~~(l) ASME A17.1-8.11.5.12 Limited use/limited application elevators, WAC 296-96-23605 (1) or (2).~~

~~(m) ASME A17.1-8.11.5.13 Elevators used for construction, WAC 296-96-23605 (1) or (2).~~

~~(n) These conveyances shall be subject to the corresponding ASME A17.1-8.11 examination requirements as applicable (see ASME A17.1 for sections references). The applicable items above shall be documented on the required records.~~

Note: Chapter 70.87 RCW exempts these elevators from periodic inspections, but these examination guidelines provide the proper outline for the level of service that should be provided.

~~(6) The maintenance and examination of escalators shall conform to ASME A17.1-8.6.1 through ASME A17.1-8.6.3 and ASME A17.1-8.6.8 and the applicable sections of ASME A17.1-8.11.4. The maintenance and examination of moving walks shall conform to ASME A17.1-8.6.1 through ASME A17.1-8.6.3, ASME A17.1-8.6.9 and the applicable sections of ASME A17.1-8.11.4, as amended below:~~

~~(a) Periodic examination requirements for escalators and moving walks: Service providers shall include the following when identifying components or systems, or both, that shall be examined if installed:~~

~~(b) ASME A17.1-8.11.4.1 Escalators and moving walks:~~

~~(i) General fire protection;~~

- (ii) Geometry;
- (iii) Entrance and egress;
- (iv) Lighting;
- (v) Caution signs;
- (vi) Combplate;
- (vii) Deck barricade guard and antislip devices*;
- (viii) Steps and treadway;
- (ix) Operating devices;
- (x) Skirt obstruction devices;
- (xi) Handrail entry device;
- (xii) Egress restriction device;
- (xiii) Balustrades;
- (xiv) Ceiling intersection guards*;
- (xv) Skirt panels;
- (xvi) Outdoor protection*;
- (xvii) Additional stop switch(es);
- (xviii) Controller and wiring; and
- (xix) Code data plate**; other: Annual clean down WAC 296-96-23610(7).

Note: (*) May be combined with other items on the log.
 (**) A visual component that must be reported to the owner.)

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-23606 ((ASME A17.1 8.11 Covers periodic inspections, examinations, and tests of existing ASME A17.1 installations.)) Installations placed in voluntary red tag status. (1) ((ASME A17.1 8.11.1.1.1:

(a) Annual inspections shall be made by an inspector employed by the department having jurisdiction;

(b) The inspector shall submit a signed written report to the department containing the following information:

- (i) Date of inspection; and
- (ii) Code deficiencies noted during the inspection and a statement as to the corrective action to be taken, if any.

(2) Periodic or routine examinations shall be made by a person authorized by the department.

(a) Persons authorized are licensed mechanics and other authorized persons under RCW 70.87.270.

(b) The authorized mechanic shall submit a signature on the maintenance control record containing the following information:

- (i) Date of examination(s);
- (ii) ASME A17.1 8.11 components or systems that have been examined and performed according to this chapter;

(iii) Code deficiencies noted during the examination and a statement on the repair or replacement log as to corrective action taken, if any.

(3) ASME A17.1 8.11.1.4 Installation placed out of service.

(a)) Maintenance, examinations, and safety tests shall not be required when an installation is placed ((^u)) in voluntary red tag status.((^u)) All code required maintenance, examinations, and safety tests ((~~must~~)) shall be up to date, prior to removal of the red tag.

((~~b~~)) (2) A conveyance in red tag status for two years or more shall be subject to witnessing by the inspector for the category tests due and may include ASME ((A17.1-8.11))

A17.1/CSA B44, 8.11 items, before being placed back in service.

((~~e~~)) (3) Annual operating certificate, maintenance, examinations, inspections, and tests shall not be required when an installation is placed in ((~~decommissioned~~)) voluntary red tag status.((^u))

Subpart ((~~VH~~)) IV

Lifts for Physically Handicapped

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23700 ((What is the scope of Subpart VH,)) Lifts for ((Physically Handicapped?)) persons with disabilities. The department's rules regulating lifting devices for ((physically handicapped)) persons with disabilities people are described in this subpart.

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-23701 Periodic examinations and ((safety)) tests on commercial accessibility lifts. (1) ((For five year and category 5 testing,)) A test tag in accordance with ((WAC 296-96-23610(4,)) ASME A18.1, Section 10.3, shall be attached and visible. A full-load safety test ((~~must~~)) shall be performed with weights on all commercial accessibility equipment.

(2) ((ASME A18.1-10.1.2)) The owner ((~~must~~)) shall ensure that the accessibility lifts are routinely examined and ((tested according to section 10.2 and periodically tested to 10.3. All conveyances must be tested to the applicable code(s) by an elevator mechanic licensed in the appropriate category for the lift being tested. An inspector employed by the department may witness the examinations or test)) maintained in accordance with ASME A18.1, Section 10.2.

(3) Documentation of tests, examinations and maintenance shall be readily accessible on-site.

Subpart ((~~VH~~))

Sidewalk Elevators)) V

Standard Application Material Lifts

NEW SECTION

WAC 296-96-24000 Applicable codes and rules. Standard application material lifts shall comply with the rules adopted by the department that were in effect at the time the conveyance was permitted, regardless of whether the rule(s) has been repealed, unless any new rule specifically states that it applies to all conveyances regardless of when the conveyance was permitted. Copies of previous rules adopted by the department are available upon request.

If the department determines that a standard application material lift was installed without a permit and/or without an inspection, the conveyance will be required to comply with

the current rules adopted by the department at time of discovery.

Subpart VIII

Inclined Private Residence Elevators

NEW SECTION

WAC 296-96-24100 Definition of inclined private residence elevators. "Inclined private residence elevator" means a device constructed and operated for transporting people or property from one elevation to another at an angle of inclination of seventy degrees or less from the horizontal. Essentially, it is a car or platform traveling on guides or guiding members in an inclined plane.

Note: For purposes of this chapter, devices installed indoors on stairways that utilize chairs to carry passengers are not considered "inclined passenger elevators."

NEW SECTION

WAC 296-96-24103 Requirements for existing inclined elevators. Inclined private residence elevators shall comply with the rules adopted by the department that were in effect at the time the elevator was permitted, regardless of whether the rule(s) has been repealed, unless any new rule specifically states that it applies to all conveyances, regardless of when the conveyance was permitted. Copies of previous rules adopted by the department are available upon request.

If the department determines that an inclined private residence elevator was installed without a permit and/or without an inspection, the conveyance will be required to comply with the current rules adopted by the department unless documentation can be provided to determine the date the conveyance was installed (e.g., sales receipts, building permits, or other appropriate documentation).

NEW SECTION

WAC 296-96-24106 Alterations. If the inclined private residence elevator is altered, only the component(s) that was altered shall comply with the applicable rules adopted by the department in effect at the time the conveyance was altered. If the department determines that an elevator was altered without a permit and inspection, the conveyance shall be required to comply with the applicable rules adopted by the department at the time the noncompliant alteration was identified.

NEW SECTION

WAC 296-96-24109 Minimum maintenance requirements. Owners of inclined private residence elevators are responsible for the following:

- (1) Maintaining elevators and mechanical parts in a safe condition; and
- (2) Ensuring that all devices and safeguards required by these regulations are maintained in good working order. The department recommends maintenance, examinations, and

safety tests be performed and documented to the applicable sections of WAC 296-96-23604 and 296-96-23605.

NEW SECTION

WAC 296-96-24112 Runway clearances. (1) If the car sides extend less than 6 ft. above the floor of the car, there shall be no obstruction along the runway within 24 in. of the car sides.

EXCEPTION: When solid guards are installed on the obstruction in both directions of travel which project at least 14 in. in line with the direction of travel, the running clearance may be reduced to 7 in. The guard shall be arched and the edges rounded to eliminate shear hazard.

(2) Guiding members and moving parts of the inclined private residence elevator shall be kept free of brush and other types of material that might either impede the travel or cause deterioration of the equipment over time.

NEW SECTION

WAC 296-96-24115 Landing enclosures and gates. Any landing enclosures and gates shall have:

- (1) A railing at least 42 in. high to protect all landing platforms and those areas of a building used as landing platforms; and
- (2) A gate whose height is equal to the height of the railing to protect the passenger landing opening.
 - (a) Gates may either be a horizontally sliding type or a swing type; and
 - (b) All gates shall be equipped with a latch that holds the gate closed and an electrical contact to prevent movement of the car when a gate is open.
- (3) Railing enclosure and gate shall reject a 1.5 in. diameter ball.

NEW SECTION

WAC 296-96-24118 Bumpers and buffers. (1) If spring or equivalent type buffers are not being used and rated speeds do not exceed 50 ft. per minute, solid bumpers shall be installed. Solid bumpers shall:

- (a) Be built of wood or other suitable resilient material;
 - (b) Have the ability to resist deterioration from weather;
 - (c) Have sufficient strength to withstand, without failure, the impact of a descending car carrying its rated load or counterweight and traveling at 115 percent of its rated speed.
- (2) Spring type buffers shall be installed when speeds exceed 50 ft. per minute. Spring buffers shall:
- (a) Be built with a minimum stroke of 3/4 in. and with a maximum stroke of 1 1/2 in.;
 - (b) Not fully compress when struck by a car carrying its rated load or counterweight and traveling at 115 percent of its rated speed.
 - (3) Inclined private resident elevators are not required to have bumpers and buffers except when obstructions are encountered.

NEW SECTION**WAC 296-96-24121 Machinery beams and supports.**

(1) All machinery and sheaves shall be sufficiently secured and supported to prevent any part from becoming loose or displaced. Beams directly supporting machinery shall be made of steel, sound timber or reinforced concrete.

(2) Beams and support loads shall be computed as follows:

(a) The total load on the beams shall be equal to the weight of all apparatus resting on the beams plus twice the maximum load suspended from the beams.

(b) The load resting on the beams shall include the complete weights of the driving machine, sheaves, controller, etc.

(c) The load suspended from the beams shall include the sum of the tensions in all ropes suspended from the beams.

(3) The elevator driving machine or sheaves shall not be fastened to the underside of the supporting beams at the top of the hoistway.

EXCEPTION: Cast iron in tension shall not be used for supporting members for idler and deflecting sheaves where hung beneath beams.

(4) The factor of safety for beams and support shall be no less than:

(a) 5 For steel; and

(b) 6 For timber and reinforced concrete.

NEW SECTION

WAC 296-96-24124 Car platforms. The minimum rated load shall be not less than the following:

(1) For net platform areas up to and including 12 ft², the rated load shall be not less than 40 lbs./ft² or 350 lbs. whichever is greater.

(2) For net platform areas greater than 12 ft², the rated load shall be based upon 62.5 lbs./ft².

NEW SECTION

WAC 296-96-24127 Maximum rated speed. The maximum rated speed of an incline elevator, measured along the incline, is 75 ft./min.

NEW SECTION**WAC 296-96-24130 Construction requirements.** (1)

All of the components associated with inclined private residence elevators shall be built to a minimum safety factor of 5, unless otherwise specified in this part.

(2) Inclined private residence elevator car frames and platforms shall:

(a) Be built of metal, a combination of metal and wood or other materials of equal strength;

(b) Be suitably prepared and/or protected for exposure to weather.

(3) Incline car chassis shall:

(a) Be built of metal, except for the guiding members; and

(b) Chassis guiding members shall be retained and/or enclosed in guides so that the chassis cannot be derailed.

(4) Cast iron shall not be used in the construction of a car frame or chassis.

(5) A car shall have only one compartment.

NEW SECTION

WAC 296-96-24133 Car enclosures. Car enclosures shall be:

(1) Enclosed on all sides, except at the entrance, to a height of at least 42 in.;

(2) Enclosed with a type of material that will reject a 1.5 in. diameter ball;

(3) Securely fastened to the car platform so that it cannot become loose or displaced due to ordinary service, application of the car safety, or car contact with a buffer;

(4) Built to withstand a 75 lb. pressure, horizontally applied at any point on the wall, without causing a wall deflection that reduces running clearance below 3/4 in. or above 1 in.;

(5) Weather resistant plastic and tempered safety glass may be used in car enclosures.

NEW SECTION

WAC 296-96-24136 Car doors and gates. (1) All car entrances shall be protected by a door or gate. The height of the door or gate shall be at least 42 in. and equal to the height of the car enclosure. Doors and gates may be of either a solid design or an openwork design. If of an openwork design, the door or gate shall be able to reject a 3 in. diameter ball. After the effective date of these rules the diameter will be reduced to 1.5 in.

(2) Car doors or gates shall be equipped with an electric contact that prevents the elevator from operating unless the door or gate is securely closed. If the gate is a swing type opening outward from the car, the electric contact shall not be made until the gate is securely latched.

(3) All car doors or gates shall be manually operated.

NEW SECTION

WAC 296-96-24139 Capacity and data plates. (1) The manufacturer shall install a weather resistant capacity plate. It shall be securely fastened to the car in a conspicuous place and state the car's rated load in pounds using letters at least 1/4 in. high.

(2) The manufacturer shall install a metal data plate showing the car's weight, speed, suspension means data, manufacturer's name and date of installation. The data plate shall be securely fastened in a conspicuous place in the machine area.

NEW SECTION

WAC 296-96-24142 Guide rails, track supports and fastenings. (1) Guides, guide rails, guide rail brackets, splice plates, and fastenings shall be made of steel or other metals conforming to the requirements of this section.

(2) Guides, guide rails, guide rail brackets, and their fastenings and supports shall, at the point of support, deflect 1/8 in. or less while resisting horizontal forces encountered

during loading. When horizontal force is measured at a mid-point between brackets, guide rails shall deflect 1/4 in. or less in any direction. Fixed, suspended cable guides shall be permitted to be used as guide members. When cable guides are used, the deflection is to be specified by the manufacturer and approved by the structural engineer licensed in the state of Washington.

(3) The top and bottom of each guide or guide rail run shall not allow a car and counterweight guiding members to travel beyond the guide rail ends.

NEW SECTION

WAC 296-96-24145 Counterweights. (1) Counterweights, where used, shall be in a guide or guiding members.

(2) Counterweights shall not be of sufficient weight to cause undue slackening of any car hoisting rope or chain during acceleration or retardation of the car. Counterweight weight section(s) shall be mounted in structural or formed metal frames which are designed to retain weights securely in place.

EXCEPTION: Counterweights are permitted to be constructed of a single metal plate.

NEW SECTION

WAC 296-96-24148 Safeties and governors. (1) All inclined private residence elevators shall be equipped with a safety capable of stopping and sustaining a car carrying its rated load.

(a) Elevator safeties shall be type "A" or "B" or other devices approved by the department and shall be operated by a speed governor.

(b) Elevator safeties shall operate independently of governor speed action and without delay when a hoist rope breaks.

(2) Governors shall operate to set the safety at a maximum of 140 percent of rated speed. Upon slackening of the hoist ropes the safety shall set without appreciable delay and independently of the speed governor.

(a) The governor shall be located where:

(i) The governor will not be struck by the car or counterweight if over-travel occurs;

(ii) All parts can freely and fully move;

(iii) The governor is accessible for a complete examination.

(b) Governors are required to be of the mechanical type; and

(c) Belt driven governors shall be monitored. In the case of belt breakage or disengagement, the car shall be shut down.

(3) If ropes are used, the ropes shall be made of iron, steel, monel metal or phosphor bronze and be at least 1/4 in. in diameter. Tiller rope construction shall not be used.

(4) Motor-control circuits and brake-control circuits shall be opened either before the safety applies or at the time the safety applies.

(5) All safeties shall apply mechanically; electrically operated safeties shall not be used.

(6) All winding drum type inclined elevators that use rope suspensions shall be equipped with a manually reset slack-rope device. During a car's descent, if the travel of the car is obstructed and the hoisting ropes go slack, the slack-rope device shall stop power to the elevator motor and brake.

(7) Cast iron shall not be used to build any elevator safety part that stops and sustains the elevator.

NEW SECTION

WAC 296-96-24151 Testing of safeties and governors. (1) The safety shall be tested before the inclined private residence elevator is put into service. It shall be tested while the elevator is carrying its rated load.

(2) Governors on instantaneous type safeties shall be tested by manually tripping the governor while the elevator is traveling at its rated speed. Creating sufficient slack in the rope and dropping the elevator is a method of testing speed governors located on an elevator or chassis.

NEW SECTION

WAC 296-96-24154 Driving machines and sheaves.

(1) Winding drums, traction sheaves, overhead sheaves and deflecting sheaves shall:

(a) Be made of cast iron or steel;

(b) Have diameters at least 30 times the diameter of the wire hoisting ropes; and

(c) Have machined rope grooves.

EXCEPTIONS: • If 8 x 19 steel ropes are used, drum and sheave diameters are permitted to be reduced to 21 times the diameter of the hoisting rope.

• Existing incline lifts suspended by cables are not required to have machine grooves, except for the first row of cables wrapped on the drum and a tracking device shall be required to monitor the winding of the cable on the drum.

• On existing inclined lifts suspended by cables that do not have machine grooves on the drum, the first layer of ropes will be recognized as providing the same traction as grooves, provided that this layer remains on the drum at all times and is not allowed to wind out. Such lifts shall be provided with a rope tracking device to ensure that the rope does not wind over itself on the drum.

(2) The factor of safety, based on the static load (the rated load plus the weight of the car, ropes, counterweights, etc.) to be used in the design of driving machines and sheaves, shall be at least:

(a) 8 For driving machines and sheaves built of wrought iron and steel; or

(b) 10 For driving machines built of cast iron, cast steel or other materials.

(3) Set screw type fastenings shall not be substituted for keys or pins if connections are subject to torque or tension.

(4) Gears:

(a) When connecting drums or sheaves to the main driving gear, friction gears, clutch mechanisms or couplings shall not be used.

(b) Worm gears having cast iron teeth shall not be used.

(5) Brakes:

(a) Electric brakes shall be of the friction type set by springs and shall release electrically.

(b) All brakes shall be able to stop and hold an elevator carrying 125 percent of its rated load.

(c) At least one brake shall be mounted so that the drum will hold the rated load in the case of gearbox failure.

(d) If a single ground or short-circuit, a counter-voltage or a motor field discharge occurs and the operating device is set in the stop position, the brake magnet shall set the brake.

(6) Driving machines:

(a) A driving machine shall be permitted to be mounted on an elevator chassis or in a remote location. However, if mounted in a remote location, all sheaves and sprockets shall be guarded and positioned so the hoisting ropes and chains remain properly aligned while the elevator is in use.

(b) Screw type machines shall not be used.

(c) Hydraulic driving machines shall conform to ASME A17.1.

(d) Roped-hydraulic machines shall be permitted to be used.

NEW SECTION

WAC 296-96-24157 Terminal stopping switches. A hoistway shall be equipped with normal upper and lower terminal stopping switches that are activated by an elevator chassis. Normal upper and lower terminal stopping switches shall stop the elevator at the normal top and bottom terminals of travel.

(1) A hoistway shall be equipped with final terminal stopping switches that are activated by an elevator chassis. These switches shall stop the elevator if the elevator travels beyond the normal terminals and prevent the elevator from moving in either direction.

(2) Winding drum machines shall be permitted to use a slack cable switch instead of a bottom final terminal switch.

(3) Normal and final terminal stopping switches shall not control the same switches on the controller unless at least two separate and independent switches are used. At least two of these separate switches shall be closed in order to complete the motor and brake circuits for each direction of travel.

NEW SECTION

WAC 296-96-24160 Operation. (1) If the activation of the elevator is by key switch or key pad, it shall conform to the requirements of (a) and (b) of this subsection. The department may approve alternative methods of equal security such as key card or magnetic swipe card. Methods shall conform to the following:

(a) The key or code shall be entered each time to move the elevator.

(b) Key-operated switches shall be of the spring return type and shall be operated by a weatherproof cylinder type lock having not less than five pin or five disc combination with the key removable only when the switch is in the off position.

(2) If activation of the elevator is provided by a timing circuit that only allows the circuits to be initiated or unlocked for a sufficient amount of time to allow passengers to board

the elevator and begin transit, a separate activation switch on the car is not required. The operating circuits shall automatically relock:

(a) If the elevator is not activated within its preset period of time;

(b) When any landing stop button is activated;

(c) When the preset timing period has expired and the car has completed transit to another landing or returns to the departure landing.

(3) Emergency stop switches shall be provided on or adjacent to the operating station.

(a) Stop switches in the car shall:

(i) Be of a manually opened and manually closed type;

(ii) Have red handles or buttons and be conspicuously marked "STOP";

(iii) Open even if springs fail when springs are used.

(b) Stop switch at other operating stations:

(i) May be of a momentary type;

(ii) Shall have red handles or buttons and be conspicuously marked "STOP";

(iii) Shall open even if springs fail when springs are used;

(iv) After initiation of stopping, the car shall not automatically restart. Run condition shall be manually initiated.

(4) Design and installation of control and operating circuits shall meet the following:

(a) Control systems based upon the completion or maintenance of an electric circuit shall not be used for:

(i) Interrupting power and applying machine brakes at terminals;

(ii) Stopping elevators when an emergency stop switch is open or when any electrical protective device operates;

(iii) Stopping a machine when the safety applies.

(b) If springs are used to activate switches, contacts, or circuit breaking relays to stop the elevator at a terminal, the springs shall be of the restrained compression type.

(5) Hand rope operation shall not be used.

(6) Radio controls may be used in lieu of wiring for all car controls provided:

(a) The system is set up so that it is fail safe (if contact is lost, the unit will stop);

(b) In such installations, the "STOP" button in the car shall open the contact, and maintain an open condition, so that the car stops in the fail-safe mode as described in (a) of this subsection; and

(c) The controls are permanently mounted and conform to code.

NEW SECTION

WAC 296-96-24163 Suspension means. (1) When a chassis is suspended from a driving machine by a wire rope, a single method of suspension may be used. The suspension means shall be any one of the following:

(a) Steel elevator wire rope;

(b) Steel aircraft cable; or

(c) Roller chain conforming to ANSI transmission roller chains and sprocket teeth.

(2) Steel tapes shall not be used as a suspension method.

(3) The minimum diameter of hoist ropes or cables shall be 1/4 in. galvanized elevator wire rope and 3/16 in. aircraft cable.

(4) Factor of safety:

(a) The minimum factor of safety for a suspension method shall be not less than 8 based upon the rope tension while elevating a car carrying its rated load.

(b) In no case, shall the rated breaking strength of the rope be less than 4,000 lbs.

(5) The contact arc of a wire rope on a traction sheave shall be sufficient to produce adequate traction under all load conditions.

(6) All wire ropes anchored to a winding drum shall have at least one full turn of rope on the drum when the car or counterweight reaches its over-travel limit.

(7) The winding drum ends of car and counterweight wire ropes shall be secured by:

(a) Clamps on the inside of the drum;

(b) Return loop;

(c) Properly made individual tapered babbitted sockets;

or

(d) Properly attached fittings recommended by wire rope manufacturers.

U-bolt type clamps shall not be used.

(8) The ends of wire ropes shall be fastened to cars or counterweights by:

(a) Return loop; or

(b) Properly made individual tapered babbitted sockets that conform to ASME A17.1/CSA B44 requirements. (The diameter of the hole in the small end of the socket shall not exceed the nominal diameter of the rope by more than 3/32 in.); or properly attached fittings recommended by wire rope manufacturers.

U-bolt type clamps shall not be used.

(9) Rope repair:

(a) Car and counterweight wire ropes shall not be lengthened or repaired by splicing.

(b) If a single wire rope in a set is worn or damaged and needs to be replaced, the entire set shall be replaced.

NEW SECTION

WAC 296-96-24166 Controllers. All controllers shall be labeled and listed where required at the time of installation or alteration. In addition, controller covers shall be locked.

NEW SECTION

WAC 296-96-24169 Traveling cables. (1) All traveling cables shall conform to the edition of NFPA 70 in effect at the time of installation or major alteration.

(2) Where circuits through the traveling cable(s) exceed 30 volts, a means shall be provided to stop the power automatically if the traveling cable parts.

NEW SECTION

WAC 296-96-24172 Electrical wiring. (1) All wiring shall conform to the National Electrical Code (NEC) in effect at the time of installation or major alteration.

(2) If a driving machine is mounted on the elevator chassis, the electrical connections between the elevator and the power source must be able to stop power if a traveling cable parts.

(3) All electrical connections between the elevator and the stationary connections shall be insulated flexible conducts conforming to the applicable articles in NFPA 70 relating to elevators, dumbwaiters, escalators, moving walks, wheelchair lifts, and stairway chair lifts.

(4) An elevator mechanic employed by an elevator contractor may perform electrical work starting from the load side inside the controller.

NEW SECTION

WAC 296-96-24175 Supporting structures. All supporting structures shall meet the local building codes.

NEW SECTION

WAC 296-96-24178 Additional requirements. (1) All inclined private residence elevators shall be equipped with:

(a) A manual method of moving the elevator in accordance with ASME A17.1/CSA B44; and

(b) A machine brake with a lever to release the brake allowing movement by use of a manual method.

(2) Machinery spaces shall be protected from weather and accidental contact. Machinery spaces shall be locked.

(3) Guiding members and moving parts of the inclined private residence elevator shall be free of brush and other types of material that might either impede the travel or cause deterioration of the equipment over time.

Subpart IX

Private Residence Inclined Conveyances for Transporting Only Property

NEW SECTION

WAC 296-96-24200 Scope. The rules in this section are the minimum standard for all existing inclined private residence conveyances for transporting property for single family use in a private residence. The purpose of this section is to ensure that inclined private residence conveyances will be used only for transporting materials and goods, not people, and that no person in proximity of the conveyance will be endangered by its operation or failure.

NEW SECTION

WAC 296-96-24203 Definition. "Inclined private residence conveyances for transporting property" means a device constructed and operated for transporting property from one elevation to another at an angle of inclination of 70 degrees or less from the horizontal. Essentially, it is a car or platform traveling on guides or guiding members in an inclined plane.

NEW SECTION

WAC 296-96-24206 Existing conveyances. Inclined private residence conveyances for transporting property shall comply with the rules adopted by the department that were in effect at the time the conveyance was permitted, regardless of whether the rule(s) has been repealed, unless any new rule specifically states that it applies to all conveyances available, regardless of when the conveyance was permitted. Copies of previous rules adopted by the department are available upon request.

If the department determines that an inclined private residence conveyance for transporting property was installed without a permit and inspection, the conveyance will be required to comply with the current rules adopted by the department unless documentation determining the date the conveyance was installed (e.g., sales receipts, building permits, or other appropriate documentation) can be provided.

NEW SECTION

WAC 296-96-24209 Alterations. If the inclined private residence conveyance for transporting property is altered, only the component(s) that was altered shall comply with the applicable rules adopted by the department in effect at the time the conveyance was altered.

If the department determines that a conveyance was altered without a permit and inspection, the conveyance will be required to comply with the applicable rules adopted by the department at the time the noncompliant alteration was identified.

NEW SECTION

WAC 296-96-24212 Plans. (1) Before commencing alteration of any inclined private residence elevator for transporting property, the owner shall submit complete plans and specifications to the department for approval.

(2) Plans and specifications covering the installation of an inclined private residence conveyance for transporting property shall be endorsed by a professional engineer before the department will approve the plans.

NEW SECTION

WAC 296-96-24215 Minimum maintenance requirements. Owners of inclined private residence elevators for transporting property are responsible for ensuring that:

(1) Elevators and their parts are maintained in a safe condition;

(2) All devices and safeguards required by these regulations are maintained in good working order.

The department recommends maintenance, examinations, and safety tests be performed and documented to the applicable sections of WAC 296-96-23601 through 296-96-23610.

NEW SECTION

WAC 296-96-24218 Cars, landing gates and enclosures. (1) Any landing enclosure shall have a railing at least

42 in. high to protect all landing platforms and those areas of a building used as landing platforms.

(2) Where gates are not provided at the entrance to the platform, a chain with a sign shall be provided to block the landing entrance. The sign shall state "Keep off landing until elevator has stopped at platform."

(3) If gates are provided they shall be:

(a) Either a horizontally sliding type or a swing type; and

(b) Equipped with a latch that holds the gate closed and an electrical contact to prevent movement of the elevator when a gate is open.

NEW SECTION

WAC 296-96-24221 Bumpers and buffers. Solid bumpers or spring type buffers may be used.

(1) Solid bumpers shall:

(a) Be built of wood or other suitable resilient material;

(b) Have the ability to resist deterioration from weather; and

(c) Have sufficient strength to withstand, without failure, the impact of a descending conveyance carrying its rated load or counterweight while traveling at 115 percent of its rated speed.

(2) Spring type buffers, if used, shall:

(a) Be built with a minimum stroke of 3/4 in. and with a maximum stroke of 1 1/2 in.; and

(b) Not fully compress when struck by the conveyance carrying its rated load or counterweight and traveling at 115 percent of its rated speed.

(3) Inclined private residence conveyances for transporting property are not required to have bumpers and buffers except when obstructions are encountered.

NEW SECTION

WAC 296-96-24225 Machinery beams, sheaves, and supports. (1) All machinery and sheaves shall be sufficiently secured and supported to prevent any part from becoming loose or displaced. Beams directly supporting machinery shall be made of steel, sound timber, or reinforced concrete.

(2) Beams and support loads shall be computed as follows:

(a) The total load on the beams shall be equal to the weight of all apparatus resting on the beams plus twice the maximum load suspended from the beams.

(b) The load resting on the beams shall include the complete weights of the driving machine, sheaves, controller, etc.

(c) The load suspended from the beams shall include the sum of the tensions in all ropes suspended from the beams.

(3) The elevator driving machine or sheaves shall not be fastened to the underside of the supporting beams at the top of the hoistway.

EXCEPTION: Cast iron in tension shall not be used for supporting members for idler and deflecting sheaves where they are hung beneath beams.

(4) The factor of safety for beams and supports shall be no less than:

(a) 5 For steel; or

(b) 6 For timber and reinforced concrete.

NEW SECTION

WAC 296-96-24228 Rated load of platforms. (1) The rated load of a platform shall not exceed 5,000 lbs.

(2) The rated load of the platform shall be no less than the load to be carried and shall not exceed 50 lbs./ft² of inside net platform area.

NEW SECTION

WAC 296-96-24231 Rated speed. The maximum rated speed of an inclined conveyance, measured along the incline, is 75 ft./min.

NEW SECTION

WAC 296-96-24234 Frames and platforms. (1) Inclined conveyance elevator frames and platforms shall:

(a) Be built of metal, a combination of metal and wood or other materials of equal strength;
 (b) Have a safety factor of at least 5; and
 (c) Be suitably prepared and/or protected from exposure to weather.

(2) Inclined conveyance chassis shall:

(a) Be built of metal, except for the guiding members;
 (b) Have a safety factor of at least 5, based upon the conveyance's rated load; and
 (c) Have the chassis guiding members retained and/or enclosed in guides so that the chassis cannot be derailed.

(3) Cast iron may not be used in the construction of the conveyance frame or chassis.

(4) A car shall have only one compartment.

NEW SECTION

WAC 296-96-24237 Car enclosures. (1) Car enclosures are not required; however, if provided, the car enclosure shall be:

(a) Securely fastened to the car platform so that it cannot become loose or displaced due to ordinary service, application of the conveyance safety, or from the conveyance coming into contact with the buffer.

(b) Built to withstand a 75 lb. pressure, horizontally applied to any point on the wall, without causing deflection to the wall that reduces running clearance below 3/4 in. or above 1 in.

(2) If glass or plastic is used in the car enclosure, it shall be weather resistant plastic or tempered safety glass.

(3) Where there is no car enclosure, a means shall be provided to secure all materials to the platform.

NEW SECTION

WAC 296-96-24240 Capacity and data plates. (1) The manufacturer shall install a weather resistant capacity plate. It shall be securely fastened to the conveyance in a conspicuous place and state the conveyance's rated load in pounds using letters at least 1/4 in. high.

(2) The manufacturer shall install a metal data plate showing the conveyance's weight, speed, suspension means data, manufacturer's name and date of installation. The data

plate shall be securely fastened in a conspicuous place in the machine area.

NEW SECTION

WAC 296-96-24243 Guide rails, track supports, and fastenings. (1) Guides, guide rails, guide rail brackets, splice plates, and fastenings shall be made of steel or other metals conforming to the requirements of this section.

(2) Guides, guide rails, guide rail brackets, and their fastenings and supports shall, at the point of support, deflect 1/8 in. or less while resisting horizontal forces encountered during loading. When horizontal force is measured at a mid-point between brackets, guide rails shall deflect 1/4 in. or less in any direction.

(3) The top and bottom of each guide or guide rail run shall not allow the conveyance and counterweight guiding members to travel beyond the guide rail ends.

(4) Guides for inclined private residence conveyances shall have no more stresses and deflection than allowed by the manufacturer's specifications.

NEW SECTION

WAC 296-96-24246 Counterweights. (1) Counterweights, where used, shall be in a guide or track.

(2) Counterweights shall not be of sufficient weight to cause undue slackening of any conveyance hoisting rope or chain during acceleration or retardation of the conveyance. Counterweight weight section(s) shall be mounted in structural or formed metal frames which are designed to retain weights securely in place.

EXCEPTION: Counterweights may be constructed of a single metal plate.

NEW SECTION

WAC 296-96-24249 Safeties and governors. (1) All inclined private residence conveyances for transporting property shall have a slack cable safety device capable of stopping and sustaining a car carrying its rated load.

(2) Other types of approved safety devices may be used provided they have been approved by the department.

NEW SECTION

WAC 296-96-24252 Testing of safeties. Safeties shall be tested before inclined private residence conveyances for transporting property are put into service. Safeties shall be tested while the conveyance is carrying its rated load.

NEW SECTION

WAC 296-96-24255 Drive machines, sheaves and brakes. (1) All new winding drums, traction sheaves, overhead sheaves and deflecting sheaves shall:

(a) Be made of cast iron or steel;

(b) Have diameters at least 30 times the diameter of the wire hoisting ropes;

EXCEPTION: If 8 x 19 steel ropes are used, drum and sheave diameters may be reduced to 21 times the diameter of the hoisting rope.

(c) Have machined rope grooves.

(2) The factor of safety, based on the static load (the rated load plus the weight of the car, ropes, counterweights, etc.) to be used in the design of driving machines and sheaves, shall be at least 5.

(3) Set screw type fastenings shall not be substituted for keys or pins if connections are subject to torque or tension.

(4) Gears:

(a) When connecting drums or sheaves to the main driving gear, friction gears, clutch mechanisms or couplings shall not be used.

(b) Worm gears having cast iron teeth shall not be used.

(5) Brakes:

(a) Electric brakes shall be of the friction type set by springs and shall release electrically.

(b) All brakes shall be able to stop and hold a car carrying 125 percent of its rated load.

(c) At least one brake shall be mounted on the load side of the driving machine's worm shaft. On indirectly driven lifts, brakes shall engage when the driving machine fails.

(d) If a single ground or short-circuit, a counter-voltage or a motor field discharge occurs and the operating device is set in the stop position, the brake magnet shall set the brake.

(6) Driving machines:

(a) A driving machine may be mounted on a conveyance chassis or in a remote location. However, if mounted in a remote location all sheaves and sprockets shall be guarded and positioned so the hoisting ropes and chains remain properly aligned while the conveyance is in use.

(b) Screw type machines shall not be used.

(c) Hydraulic driving machines shall conform to ASME A17.1.

(d) Roped-hydraulic machines may be used.

(e) Rack and pinion drive may be used.

EXCEPTION: Existing inclined private residence conveyances for transporting property may use wrapped cable drums as long as they do not show signs of excessive wear.

NEW SECTION

WAC 296-96-24258 Terminal stopping switches. A hoistway shall be equipped with normal upper and lower terminal stopping switches that are activated by the conveyance chassis. These switches shall stop the conveyance at the normal top and bottom terminals of travel.

(1) Winding drum machines may use a slack cable switch as a bottom final terminal switch.

(2) Normal and final terminal stopping switches shall not control the same switches on the controller unless at least two separate and independent switches are used. At least two of these separate switches shall be closed in order to complete the motor and brake circuits for each direction of travel.

NEW SECTION

WAC 296-96-24261 Activation and operation. (1) If activation of the conveyance is by key switch, key pad or

swipe card, the activation and operation shall conform to the requirements of (a) and (b) of this subsection. The department may approve alternative methods of equal security.

(a) The key or code shall be entered each time to move the conveyance.

(b) Key-operated switches shall be of the spring return type and shall be operated by a weatherproof cylinder type lock having not less than 5 pin or 5 disc combination with the key removable only when the switch is in the off position.

(2) If activation is provided by a timing circuit that only permits the circuits to be initiated or unlocked for a sufficient amount of time to allow the loading of materials, the operating circuits shall automatically relock:

(a) If the conveyance is not activated within its preset period of time;

(b) When any landing stop button is activated; or

(c) When the car has completed transit to another landing or returns to the department landing.

(3) Emergency stop switches shall be provided on or adjacent to the operating station. Stop switches:

(a) May be of a momentary type;

(b) Shall have red handles or buttons and be conspicuously marked "STOP"; and

(c) Shall open even if springs fail when springs are used.

(4) After initiation of stopping, the car may not automatically restart. Run condition shall be manually initiated.

(5) Design and installation of control and operating circuits shall meet the following:

(a) Control systems based upon the completion or maintenance of an electric circuit shall not be used for interrupting power and applying machine brakes at terminals, stopping elevators when an emergency stop switch is open or when any electrical protective device operates, or for stopping a machine when the safety applies.

(b) If springs are used to activate switches, contact, or circuit breaking relays to stop the elevator at a terminal, the springs shall be of the restrained compression type.

(6) Hand rope operation shall not be used.

NEW SECTION

WAC 296-96-24264 Suspension means. (1) When a chassis is suspended from a driving machine by a wire rope, a single method of suspension may be used. The suspension means may be any one of the following:

(a) Steel elevator wire rope;

(b) Steel aircraft cable; or

(c) Roller chain conforming to ANSI transmission roller chains and sprocket teeth.

(2) Steel tapes shall not be used as a suspension method.

(3) The minimum diameter of hoist ropes or cables shall be 1/4 in. galvanized elevator wire rope and 3/16 in. aircraft cable.

(4) Factor of safety:

(a) The minimum factor of safety for a suspension method is 5 based upon the rope tension while elevating the elevator carrying its rated load.

(b) In no case, shall the rated breaking strength of the rope be less than 4,000 lbs.

(5) The contact arc of a wire rope on a traction sheave shall be sufficient to produce adequate traction under all load conditions.

(6) All wire ropes anchored to a winding drum shall have a least one full turn of rope on the drum when the car or counterweight reaches its over-travel limit.

(7) The winding drum ends of car and counterweight wire ropes shall be secured by:

- (a) Clamps on the inside of the drum;
- (b) Return loop;
- (c) Properly made individual tapered babbitted sockets;

or

(d) Properly attached fittings recommended by wire rope manufacturers.

U-bolt type clamps shall not be used.

(8) The ends of wire ropes shall be fastened to cars or counterweights by:

(a) Return loop;

(b) Properly made individual tapered babbitted sockets that conform to ASME A17.1/CSA B44 requirements (the diameter of the hole in the small end of the socket shall not exceed the nominal diameter of the rope by more than 3/32 in.); or

(c) Properly attached fittings recommended by wire rope manufacturers.

U-bolt type clamps shall not be used.

(9) Rope repair:

(a) Car and counterweight wire ropes shall not be lengthened or repaired by splicing.

(b) If a single wire rope in a set is worn or damaged and needs to be replaced, the entire set shall be replaced.

(10) A metal or plastic data tag shall be securely attached to one of the wire rope fastenings each time the ropes are replaced or reshackled. The data tag shall include:

- (a) The diameter of the ropes in inches; and
- (b) The manufacturer's rated breaking strength.

NEW SECTION

WAC 296-96-24267 Controllers. All controllers shall be labeled and listed. In addition, controller covers shall be locked.

NEW SECTION

WAC 296-96-24270 Traveling cables. (1) All traveling cables shall conform to the NEC in effect at the time of installation or major alteration.

(2) Where circuits through the traveling cable(s) exceed 30 volts, a means shall be provided to stop the power automatically if the traveling cables part.

NEW SECTION

WAC 296-96-24273 Electrical requirements. (1) All wiring shall conform to the NEC in effect at the time of installation or major alteration.

(2) If a driving machine is mounted on the conveyance chassis, the electrical connections between the conveyance and the power source shall be able to stop power if a traveling cable parts.

(3) All electrical connections between the conveyance chassis and the stationary connections shall be insulated flexible conductors conforming to the applicable articles of the NEC relating to elevators, dumbwaiters, escalators, moving walks, wheelchair lifts, and stairway chair lifts.

(4) An elevator mechanic employed by an elevator contractor may perform electrical work starting from the load side inside the controller.

NEW SECTION

WAC 296-96-24276 Track supporting structures. All supporting structures shall meet the local building codes.

NEW SECTION

WAC 296-96-24279 Additional requirements. (1) All inclined private residence conveyances for transporting property shall be equipped with:

(a) A manual method capable of moving the conveyance in accordance with ASME A17.1/CSA B44; and

(b) A machine brake with a lever to release the brake allowing movement by use of the manual method.

(2) Machinery spaces shall be protected from weather and accidental contact. Machinery spaces shall be locked.

(3) Metal signs stating, "NO RIDERS" in 2.0 in. letters shall be conspicuously posted and permanently attached to the conveyance and at each landing.

Subpart X

Material Hoists

NEW SECTION

WAC 296-96-24301 Applicable regulations. All material hoist installations, maintenance, repair, and tests shall comply with the edition of ANSI/ASSE A10.5 Safety Requirements for Material Hoists under the edition to which they were installed. EXCEPTION: Lifts and hoists for material that are erected temporarily for use during construction work only and are designed in one of the following ways:

(1) Powered platforms used for and temporarily constructed in conjunction with exterior work on building facades or to erect scaffolding, not intended to move material from one landing to another; and

(2) Portable lifts for material only.

NEW SECTION

WAC 296-96-24350 Inspection of jumps. Material hoists that have been increased in height (jumped) shall be inspected before being allowed to run to the new landings.

Subpart XI

Belt Manlifts

NEW SECTION

WAC 296-96-24401 Applicable requirements. (1) Belt manlifts shall comply with the code under which the unit was installed.

(2) Where a unit was installed when no code was available (pre-1949), the unit shall, as a minimum, comply with the oldest adopted standard (i.e., ASME A90.1-2003).

(3) Appendix I and II records shall be kept in a secure location within the building and be readily accessible to maintenance personnel and inspectors.

NEW SECTION

WAC 296-96-24416 Landings. (1) Vertical clearance between the floor or mounting platform and the lower edge of the conical guard above it shall be at least 7 ft., 6 in. When this clearance is not possible, access to the manlift shall be prohibited and the space where the runway passes through the platform floor shall be enclosed.

(2) Floor space adjacent to floor openings shall be kept clear and free of obstructions at all times.

(3) Adequate lighting shall be provided at each floor landing whenever the lift is in use.

Note: For purposes of this section "adequate lighting" means 5 foot-candles.

(4) The landing surfaces at all entrances and exits shall provide safe footing and shall have a coefficient of friction of not less than 0.5 to help ensure safe footing.

(5) Emergency landings shall be provided so that the maximum distance a person travels on the emergency ladder between an emergency landing and a floor landing is 25 ft.

Emergency landings shall:

- (a) Be accessible from both runs of the lift;
- (b) Give access to the emergency ladder; and
- (c) Be completely enclosed with a standard railing and toeboard.

NEW SECTION

WAC 296-96-24419 Landing guards and cones. (1) On the ascending side of the lift, all landings shall have a beveled guard or cone that meets the following requirements:

(a) Where possible, a cone shall make an angle with the horizontal of at least 45 degrees. A cone angle of 60 degrees or more shall be used where ceiling heights permit.

(b) Where possible, the guard or cone shall extend at least 42 in. outward from any belt handhold. A guard or cone shall not extend beyond the upper surface of the floor above.

(c) A cone shall be built of sheet steel (at least No. 18 U.S. gauge) or any material of equivalent strength or stiffness. The lower edge of a cone shall be rolled to a minimum diameter of 1/2 in. The interior of a cone shall be smooth with no protruding rivets, bolts, or screws.

(2) All obstructions shall be guarded just like floor openings with the same minimum distances observed.

NEW SECTION**WAC 296-96-24422 Guarding of entrances and exits.**

(1) All manlift floor or landing entrances and exits shall be guarded by either a maze (staggered railing) or a handrail equipped with self-closing gates.

(2) When a maze is used:

(a) Maze or staggered openings shall not allow direct passage between a platform enclosure and the outer floor space;

(b) Rails shall be located between 24 and 48 in. from the edge of the opening as measured at right angles to the face of the belt; and

(c) At openings, the intersection of the top rail and the end post shall form a bend or standard long sweep "ell."

(3) When a handrail is used:

(a) Rails shall be standard guardrails; and

(b) Gates shall have rounded corners, open outward, and be self-closing.

(4) Unless prevented by building design, all entrances and exits at all landings shall be in the same relative location.

NEW SECTION**WAC 296-96-24425 Guarding of floor openings.**

Except on the entrance or exit side, floor openings at each landing shall be guarded.

(1) The guards shall be constructed by one of the following methods:

(a) A standard railing and toeboard;

(b) Panels of wire mesh (not less than No. 10 U.S. gauge);

(c) Panels of expanded metal (not less than No. 13 U.S. gauge);

(d) Panels of sheet metal (not less than No. 13 U.S. gauge); or

(e) Metal on a frame of either angle iron (at least 1 1/4 by 1 1/8 in.) or 1 1/4 in. iron pipe.

(2) When a belt manlift is installed in a stairwell, a standard guardrail shall be placed between the floor openings and the stairway.

(3) Rails or guards shall be:

(a) At least 42 in. high on the up-running side and 66 in. high on the down-running side; and

(b) Be located not more than 1.0 ft. from the edge of the floor opening.

(4) If a guardrail is used, the section of the guard above the rail may be constructed:

(a) According to ASME A90.1; or

(b) Using either vertical or horizontal bars capable of rejecting a 6 in. diameter ball.

NEW SECTION**WAC 296-96-24428 Guarding of floor landings.**

Expanded metal, sheet metal or wooden guards shall be installed on each floor landing to prevent people from placing their hands in areas where step-rollers operate. These guards shall be installed on each exposed side of the lift and extend from the floor to a height of 84 in.

NEW SECTION

WAC 296-96-24431 Bottom landings. (1) Bottom landing clear areas:

(a) Where possible, the clear area of a bottom landing shall be at least the size of the area enclosed by guardrails on the floors above;

(b) A clear area shall be free of stairs and ladders; and

(c) If a wall on the bottom landing is located in front of the down-running side of the belt, it shall be installed at least 48 in. away from the belt face.

(2) The lowest landing serviced by the lift shall support the lower (boot) pulley installation.

(3) A mounting platform shall be installed on the lowest landing unless the landing floor is at or above the point at which the upper surface of the belt steps assume or leave a horizontal position.

(4) If a mounting platform is installed, it shall be located in front of or to one side of the up/down run.

NEW SECTION

WAC 296-96-24434 Top clearances. (1) When the center of the head pulley is more than 72 in. above the top landing, an emergency landing and ladder shall be installed.

(2) The location of the emergency landing shall be 24 in. below the center of the head pulley.

NEW SECTION

WAC 296-96-24437 Emergency exit ladders. Emergency exit ladders shall:

(1) Be a fixed metal type;

(2) Be accessible from either the "up" or "down" path of the lift;

(3) Be installed when the vertical distance between the landings exceeds 20 ft.; and

(4) Be constructed to comply with current general safety standards except enclosed cages need not be built;

(5) Provide access to an emergency exit;

(6) Be located in a position so that in an emergency a person can safely transfer from the manlift to the ladder.

Note: Transfer is considered safe when a person can maintain 3 points of contact while making the transfer.

NEW SECTION

WAC 296-96-24440 Lighting. (1) When a lift is in operation, both runs shall be illuminated at all points with an intensity of at least 1.0 foot-candle.

(2) Lighting control in runways shall be:

(a) Circuits tied permanently into the building circuits (no switches);

(b) Near the starting switch that controls the lift motor; or

(c) Separate switches located on every landing and with each switch having the capability of turning on all lights throughout the entire runway.

NEW SECTION

WAC 296-96-24445 Drive machines. (1) Belt manlifts shall be driven either by directly connected machines or by multiple "V" belts.

(2) Cast iron gears shall not be used.

(3) Brakes:

(a) On direct connected machines, the brake shall be mechanically applied to the motor shaft and released electronically.

(b) On "V" belt driven machines, the brake shall be mechanically applied to the input shaft and released electronically.

(c) All brakes shall be capable of stopping and holding the lift while carrying its rated capacity.

(4) Belts:

(a) Belts shall not have more than one splice per belt.

(b) There shall not be more than 1 in. of space between the opposing ends of the belt.

(c) A belt manlift that has evidence of severe belt damage shall be removed from service immediately. Belts with severe belt damage shall not be repaired and/or returned to service. "Severe belt damage" means that the protective outer cover of a belt becomes cut, cracked or separated exposing damaged inner fabric, and such damage extends across the full width of the belt, spans between adjacent bolt holes, or damage goes through the entire thickness of the inner fabric. A torn belt is also considered severe.

EXCEPTION: A lap splice that has become cracked or damaged may be converted to a butt splice and returned to service, provided that the damaged area on the splice is completely removed.

(d) The conversion of a lap splice to a butt splice does not constitute a repair.

(e) A belt that has evidence of superficial belt cover damage while in use on a manlift is not required to be replaced. "Superficial belt cover damage" means that the protective outer cover of a belt becomes scratched, cut or cracked exposing the inner fabric. Such damage shall not be continuous across the full width of the belt.

(5) Belts fastening:

(a) Shall be fastened either by a lap splice or a butt splice with a strap on the belt side opposite the pulley.

(b) For lapped splices on manlifts with travel distances not exceeding 100 ft., the overlap of the belt at the splice shall be at least 36 in.; or

(c) For lapped splices exceeding 100 ft., the overlap at the splice shall be at least 48 in.

(d) For butt splices on manlifts with travel distances not exceeding 100 ft., the strap shall extend at least 36 in. on one side of the butt; or

(e) For butt splices on manlifts exceeding 100 ft., the strap shall extend at least 48 in. on one side of the butt.

(f) For 12 in. belts, the joint shall be fastened with a minimum of 20 special elevator bolts with minimum diameters of 1/4 in. To effectively cover the belt joint area, these bolts shall be arranged symmetrically in 5 rows.

(g) For a 14 in. belt, the minimum number of bolts is 23.

(h) For a 16 in. belt, the minimum number of bolts is 27.

(6) All installations shall use machines designed and constructed to hold the driving pulley when there is shaft failure or overspeed.

NEW SECTION

WAC 296-96-24448 Operating speed. The maximum belt speed of a belt manlift is 80 ft./min. No belt manlift shall be installed that exceeds this maximum speed limit, and all belt manlifts in a given location should run at approximately the same speed.

NEW SECTION

WAC 296-96-24451 Step requirements. (1) Measured from the belt to the edge of the step, the minimum depth of a step is 12 in. and the maximum depth is 14 in.

(2) Step width shall not be less than the width of the belt to which it is attached.

(3) Measured from the upper surface of one step to the upper surface of the next step above, the distance between steps shall be at least 16 ft. and the steps shall be equally spaced along the belt.

(4) A step shall be attached to the belt so its surface approximates a right angle with the face of the belt enabling the step to travel in basically a horizontal position with the "up" and "down" path of the belt.

(5) The working (upper) surface of a step shall be made of either a material having nonslip characteristics (possessing a coefficient of friction of not less than 0.5) or be completely covered with a securely attached nonslip tread.

(6) Step supports (frames) and guides shall be sufficiently strong to prevent:

- (a) The disengagement of any step roller;
- (b) Any appreciable misalignment; or
- (c) Any visible deformation of the step or its support.

(7) Steps shall have corresponding handholds.

(8) If a step is removed for any reason, the handholds immediately above and below it shall be removed before the lift resumes operation.

NEW SECTION

WAC 296-96-24454 Handholds. (1) Handholds attached to the belt shall be provided and installed so that they are not less than 48 in. nor more than 56 in. above the step tread. These handholds shall be available on both the "up" and "down" run of the belt.

(2) All handhold grab surfaces shall be at least 4 1/2 in. in width. Fastenings shall not come within 1 in. of the belt edge.

(3) All handholds shall be capable of withstanding, without damage, a 300 lb. load applied parallel to the belt run.

(4) All handholds shall have corresponding steps. When a handhold is removed for any reason, the corresponding step and handhold for the opposite direction of travel shall also be removed before the lift resumes operation.

NEW SECTION

WAC 296-96-24457 Up-limit stop devices. (1) Two separate automatic stop devices shall be provided to cut off the power and apply the brake when a loaded step passes the upper terminal landing. One of these devices shall consist of a switch mechanically operated by the belt or stop roller. The second device shall consist of any of the following:

(a) A roller switch located above but not in line with the first switch;

(b) A photocell and light source (an "electric eye"); or

(c) A switch activated by a lever, bar, rod, or plate.

(i) If a plate is used, it shall be positioned above the head pulley so it barely clears a passing step.

(ii) If a bar is used, the bar shall be of the "breakaway" type.

(2) The stop device shall stop the lift before a loaded step reaches a point 24 in. above the top terminal landing.

(3) Once the lift has stopped, the automatic stop device shall be manually reset. Therefore, this device shall be located on the top landing where the person resetting the device has a clear view of both the "up" and "down" runs of the lift; and it shall be impossible to reset from a step.

(4) Electric stop devices shall meet the following requirements:

(a) All electric switches that directly open the main motor circuit shall be multiple type switches;

(b) Photoelectric devices shall be designed and installed so that failure of the light source, the light sensitive element or any vacuum tube used in the circuit will result in shutting off the power to the driving motor;

(c) In areas where flammable vapors or dust may be present, all electrical installations shall be in accordance with the NEC requirements for those installations; and

(d) All controller contacts carrying main motor current shall be copper to carbon types unless the circuit is simultaneously broken at two or more points or the contacts are immersed in oil.

NEW SECTION

WAC 296-96-24460 Emergency stop devices. All belt manlifts shall have emergency stop devices that:

(1) Are located within easy reach of the "up" and "down" run of the belt;

(2) Stop power to the lift and apply the lift brake when pulled in the direction of travel;

(3) Have a treadle switch (manual reset type) that is located below the lowest landing on the belt's "down" side and, if a person fails to get off at the lowest landing, stops the lift and ejects the person from the step as it approaches the boot pulley;

(4) Are made of cotton rope with a wire center, manila or sisal rope, or metal pipe or tubing. Wire rope cannot be used, unless covered with marlin. Rope stops shall be at least 3/8 in. in diameter; and

(5) An emergency stop may be used for normal stopping and starting if the lift does not run continuously.

NEW SECTION

WAC 296-96-24466 Warning signs. (1) Instructional signs explaining how to use the belt lift shall be:

(a) Conspicuously posted on each landing or stenciled on the belt;

(b) Printed in an easily read style with letters at least 1 in. in height;

(c) Printed in a color that clearly contrasts with the background surface (for example, white or yellow on black or black on white or gray); and

(d) Examples of instructional signs are:

- "Face the belt";
- "Use the handhold";
- "To stop - Pull rope."

(2) Warning signs and/or lights shall include an illuminated sign or red warning light announcing the top floor and shall be within easy view of an ascending passenger.

(a) If a sign, it shall be located no more than 2 ft. above the top terminal landing and printed in block letters (at least 2 in. in height) displaying the words, "Top floor - Get off."

(b) If a red light, it shall have at least a 40-watt rating and be located immediately below the upper terminal landing where it will shine in the belt passenger's face.

(3) There shall be conspicuous signs on each landing that read, "Employees only - Visitors keep off," printed in block letters at least 2 in. in height in a color that sharply contrasts with the background.

(4) A sign or red light shall be conspicuously posted above the bottom landing announcing its approach. These shall be:

(a) If a sign, printed in block letters at least 2 in. in height that sharply contrast with the background and reads, "Bottom floor - Get off."

(b) If a light, rated at least 40 watts.

(5) An electronic warning buzzer shall be installed 5 ft. above the bottom landing on the down side of the belt to warn belt riders of the approaching landing. This warning buzzer shall be automatically activated by load weight on a step.

NEW SECTION

WAC 296-96-24470 Restricted use of manlifts. (1) No freight or packaged goods may be carried on any manlift;

(2) No pipe, lumber, or other construction materials may be handled on any manlift; and

(3) No tools except those which will fit entirely within a pocket of ordinary working clothes may be carried on any manlift, except as follows:

(a) Tools may be carried in a canvas bag not larger than 11 in. by 13 in.;

(b) The bag shall have a leather bottom; and

(c) The bag shall have loops or handles to be carried in the passenger's hand while riding the manlift. Shoulder straps are prohibited.

NEW SECTION

WAC 296-96-24478 Inspection requirements. (1) All manlifts shall be inspected by a qualified person, designated by the lift's owner, at least once every 30 days.

(2) The inspection shall cover, but is not limited to, the following items:

- Belt and belt tension;
- Bottom (boot) and pulley;
- Brake;
- Clearance;
- Drive pulley;
- Driving mechanism;
- Electrical switches;
- Guardrails;
- Handholds and fastenings;
- Lubrication;
- Motor;
- Pulley supports;
- Rails, rail supports and fastenings;
- Rollers and slides;
- Signal equipment;
- Steps and fastenings;
- Warning signs and lights.

(3) A written record shall be kept of results of each inspection, and shall be made available to all inspectors. This information shall be recorded under the monthly portion of the test log required by Appendix A of ASME A90.1-1997.

(4) For purposes of this section "adequate lighting" means 5 foot-candles.

NEW SECTION

WAC 296-96-24480 Five-year test requirements. A five-year test of the belt manlifts shall be conducted, and the test shall be administered under the following conditions:

(1) Qualified people will conduct the test. A qualified person is either:

(a) An elevator mechanic licensed in the appropriate category of the conveyance being tested;

(b) The representative of a firm that manufactured the particular belt manlift who holds a current temporary mechanic's license in this state; or

(c) The representative of a firm that manufactured the particular belt manlift who is working under the direct supervision of an elevator mechanic licensed in the appropriate category of the conveyance being tested.

(2) The up capacity of the belt manlift shall be tested with 200 lbs. on each horizontal step. During the up-run portion of the test the belt manlift shall not show appreciable slip of the belt when standing or running at rated speed.

(3) The down capacity of the belt manlift shall be tested with 200 lbs. on each horizontal step. During the down-run portion of the test the belt manlift shall not show appreciable slip of the belt when standing or running at the rated speed. The brake shall stop and hold the belt with test load within a maximum of 24 in. of travel.

(4) After the five-year test has been performed a tag indicating the date of the test and name of the company performing the test shall be attached in a visible area of the drive motor machine. The tag shall have all applicable ASME A90.1, 8.1 test descriptions and code references.

Subpart XII

Special Purpose Elevators

(Formerly Known as Electric Manlifts)

NEW SECTION

WAC 296-96-24500 Scope. (1) These requirements apply to special purpose personnel elevators installed prior to January 1, 1999, in facilities in which agricultural products are stored, food products are processed, goods are manufactured, energy is generated, or similar industrial or agricultural processes are performed.

(2) Where a special purpose personnel elevator was installed after January 1, 1999, the conveyance shall comply with the edition of ASME A17.1 or A17.1/B44 that was in effect at the time.

NEW SECTION

WAC 296-96-24516 Maintenance requirements. (1) Examinations, in compliance with WAC 296-96-23605, are to be performed and documented in the maintenance and testing records.

Test tag(s) shall be attached to a wall inside the cab (car enclosure).

(2) Owners of electric manlifts are responsible for ensuring that:

(a) Elevators and their parts are maintained in a safe condition;

(b) All devices and safeguards required by these regulations are maintained in good working order; and

(c) Maintenance, examinations, and safety tests be performed and documented to the applicable sections of WAC 296-96-24519 through 296-96-24560.

NEW SECTION

WAC 296-96-24519 Hoistway and landing construction. (1) A hoistway shall be fully enclosed, or enclosed on all landings to a height of 72 in. above the landing floor or 72 in. above the highest working level or stair level adjacent to the hoistway.

(2) Perforated enclosures may be used where fire resistance is not required. However, such enclosures shall be constructed of at least No. 13 U.S. gauge steel wire, if a steel wire grill or expanded metal grill type, and have openings that reject a 1 in. diameter ball.

(3) Adequate lighting shall be provided at each landing and in the hoistway.

Note: For purposes of this section "adequate lighting" means 5 foot-candles.

(4) Emergency evacuation ladders when installed:

(a) Shall provide access to an emergency exit.

(b) Shall be located in a position so that in an emergency a person can safely transfer from the car platform to the ladder.

Note: Transfer is considered safe when a person can maintain 3 points of contact while making the transfer.

NEW SECTION

WAC 296-96-24522 Hoistway doors and gates. (1) Gates may be constructed of wood slat, steel wire grill, expanded metal or solid material provided that all openings reject a 2 in. diameter ball and resist a 250 lb. horizontal thrust.

(a) Steel wire and expanded metal gates shall be constructed of at least No. 13 U.S. gauge steel.

(b) Wood slat gates shall have slats at least 2 in. wide and 1/2 in. thick, nominal size.

(c) Solid material gates shall be constructed of at least 1/8 in. reinforced sheet steel or 1/2 in. plywood.

(2) Gates may be horizontal swinging, vertical or horizontal sliding or biparting types, and shall:

(a) Span the full width of the elevator car;

(b) Extend from 1 in. above the landing floor to at least 72 in. above it;

(c) Not swing into the hoistway.

(3) Hoistway doors shall be closed before the car can leave the landing. Once the car leaves the landing, the door shall be latched so that it will not open when the elevator is not at the landing.

NEW SECTION

WAC 296-96-24525 Car enclosures and frames. Elevator cars shall be fully enclosed to the car height or to a height of at least 78 in., whichever is greater.

(1) If constructed of solid materials, cars shall be capable of withstanding a horizontal thrust of 75 lbs. while deflecting no more than 1/4 in.

(2) If constructed of perforated materials, all openings shall be capable of rejecting at least a 1 in. diameter ball.

(3) Car frames shall be of substantial metal or wood construction.

(a) Metal frames shall have a safety factor of 4.

(b) Wood frames shall have a safety factor of 6.

(c) Wood frames shall be constructed with gussets and bolts secured with large washers, lock washers and nuts.

(4) Cars shall have platforms whose inside dimensions do not exceed 30 in. on each side (6.25 ft²).

(5) Cars shall have substantial protective tops. These tops:

(a) May have hinged front halves.

(b) Shall be made of No. 9 U.S. wire-gauge screen, No. 11 gauge expanded metal, No. 14 gauge sheet steel, or 1/4 in. or heavier plywood.

(c) If made of wire screen or metal with openings shall reject a 1/2 in. diameter ball.

(6) A properly working fire extinguisher shall be present in each car.

(7) A sign bearing the following information shall be posted in a conspicuous place within the car:

(a) Total load limit in pounds;

(b) Maximum capacity one or two persons where applicable;

(c) "For authorized personnel use only."

NEW SECTION

WAC 296-96-24528 Car doors and gates. All elevators shall have car doors, except on fully enclosed hoistways equipped with hoistway gates and enclosed from the top of the hoistway opening to the ceiling on the landing side.

(1) Car doors shall be:

(a) Constructed of solid or perforated material capable of resisting a 75 lb. thrust without deflecting 1/4 in. If perforated material is used, it shall reject a 1 in. diameter ball.

(b) Biparting or otherwise horizontally swung provided the door swings within the elevator car.

(2) Interlocks or a combination consisting of mechanical locks and electric contacts shall be provided on car gates on elevators in unenclosed hoistways unless a safe means of self-evacuation is provided. Such means shall be approved by the department.

NEW SECTION

WAC 296-96-24531 Counterweight enclosures, counterweight and fastenings. All counterweights shall be fully enclosed at landings or at the path of travel where inadvertent contact can occur.

(1) At the bottom of a counterweight enclosure, there shall be an inspection opening large enough to allow the inspection of cable fastenings, counterweight and buffer.

(2) Sectional rectangular shaped counterweights shall be secured by at least two, 1/2 in. mild steel bolts with lock nuts.

(3) Sectional round counterweights shall be fastened with a center bolt at least 3/4 in. in diameter and secured with a lock nut.

(4) All bolt eyes shall be welded closed.

(5) Cable fastening shall be by babbitted tapered elevator sockets or other acceptable methods. If cable clamps are used, a minimum of three cable clamps shall be provided. U-shaped clamps shall not be acceptable.

NEW SECTION

WAC 296-96-24534 Guide rails. Each elevator shall be equipped with at least 2 guide rails. Guide rails shall:

(1) Extend at least 6 in. beyond the maximum travel distance of the car with the buffers compressed.

(2) Be securely fastened to a vertical support for the full length of the elevator's travel.

(3) Be constructed of vertical grain fir or steel:

(a) If constructed with vertical grain fir, the rails shall be at least 1 1/2 in. x 1 1/2 in. and not vary in thickness by more than 3/16 in. on brake surfaces.

(b) If constructed of steel, it shall meet the requirements of subsections (4) and (5) of this section.

(4) Be able to resist a 250 lb. horizontal thrust.

(5) Be able to resist more than 1/2 in. total deflection when the car safety is applied.

NEW SECTION

WAC 296-96-24537 Suspension means. There shall be at least 2 hoisting ropes. Each rope shall be:

(1) Made of a good grade of elevator traction wire rope;

(2) At least 3/8 in. in diameter and possessing a safety factor of 5;

(3) Fastened by babbitted tapered elevator sockets or other acceptable methods. If cable clamps are used, a minimum of 3 fist grip or equivalent clamps shall be provided. U-shaped clamps shall not be acceptable.

NEW SECTION

WAC 296-96-24540 Habitable space below elevator. There shall not be habitable space below an elevator hoistway or counterweight shaft unless the floor above the space can withstand an impact 125 percent greater than the impact generated by a free falling car with rated load or counterweight falling from the full height of the hoistway.

NEW SECTION

WAC 296-96-24543 Car safeties. All cars suspended or operated from overhead machinery shall be equipped with an approved car safety capable of stopping and holding the car while carrying its rated load.

(1) Car safeties shall be mechanically operated and not be affected by any interruptions in the electrical circuit.

(2) Car safeties and governor controlled safeties shall operate automatically and the control circuit shall be interrupted in the event the safeties set.

(3) All special purpose elevators shall be equipped with an overspeed governor that shall not exceed 175 ft./min. and shall deenergize the brake control and motor drive circuits simultaneously when the car safety mechanism is activated.

(4) Winding drum type machines shall have a manual-reset slack rope device that interrupts the drive motor and brake circuits.

(5) Separate safety tags shall be used to distinguish the no-load annual safety test and the five-year full load test.

NEW SECTION

WAC 296-96-24547 Drive machine brakes. All elevators shall be equipped with brakes that engage mechanically and release electrically.

(1) Brakes shall be located on the final drive of all elevator machines;

(2) The brake activating circuit shall be designed so that interruption of power by the slack cable switch, control switch, and limit switches disconnect power to the brake;

(3) The brakes shall activate under short circuit, phase failure, or reverse phase conditions.

NEW SECTION

WAC 296-96-24550 Car controls. (1) Car controls shall be permitted to be automatic push button, constant pressure push button or momentary push button types. Hand rope and car switch controls shall not be used.

(2) If a car is not equipped with constant pressure push button controls, then it shall be equipped with a manually operated emergency stop switch that is clearly marked "emergency stop."

(3) Terminal limiting devices shall operate independently of car controls and shall automatically stop the car at the top and bottom terminal landings.

NEW SECTION

WAC 296-96-24553 Drive machines. (1) Elevator machines shall be driven by approved-type units.

(a) On direct drive or approved worm gear driven type, a mechanically actuated, electrically released brake shall be installed on the driving unit.

(b) On V belt driven types, a minimum of 4 belts, 1/2 in. minimum size, shall be used to transmit power from the motor to the drive shaft and a mechanically activated, electrically released brake shall be installed on the final drive shaft.

(c) All winding drum machine type elevators shall be equipped with top and bottom final limit switches.

(2) Wherever practical, elevator machines shall be installed on the top side of the supporting structure.

(3) All components of the driving mechanism and parts subject to stress involved in suspending the load or related equipment shall be designed to withstand 8 times the total weight to be suspended, including load, counterweight, car and cables.

(4) Gears shall be made of steel or equivalent material. Cast iron gears are prohibited.

(5) A working platform, with railings complying with the applicable requirements adopted according to chapter 49.17 RCW, shall be provided to allow for safely working on equipment.

(6) A light with a switch shall be located near the elevator driving machine or the machinery space.

(7) A means to lockout/tagout the elevator equipment shall be provided.

(8) The elevator machinery shall be protected from the weather.

(9) All sheaves shall be appropriately guarded per the requirements adopted according to chapter 49.17 RCW.

NEW SECTION

WAC 296-96-24557 Buffers. (1) All elevator cars shall be equipped with adequate car buffers.

(2) All elevators using counterweights shall be equipped with adequate counterweight buffers.

NEW SECTION

WAC 296-96-24560 Additional applicable requirements. Car speeds shall not exceed 125 ft./min.

Subpart XIII

Hand Elevators

(Previously Called Hand-Powered Manlifts)

NEW SECTION

WAC 296-96-24600 Scope. This section covers elevators that have the capacity of 1 person and are installed in a

facility prior to January 1, 1999, in which agricultural products are stored, food products are processed, goods are manufactured, energy is generated, or similar industrial or agricultural processes are performed.

NEW SECTION

WAC 296-96-24611 Maintenance and test requirements. (1) Maintenance and tests shall comply with the applicable requirements found in ASME A17.1/CSA B44, Section 8.6.

(a) Test tag(s) shall be attached to the inside of the car.

(b) Hand elevators with wooden rails shall be tested with no load annually.

(2) Qualified people shall conduct the test. A qualified person is either:

(a) An elevator mechanic licensed in the appropriate category for the conveyance being tested;

(b) The representative of a firm that manufactured the particular conveyance and who holds a current temporary mechanic's license in this state; or

(c) The representative of a firm that manufactured the particular conveyance who is working under the direct supervision of an elevator mechanic licensed in the appropriate category for the conveyance being tested.

(3) Examinations, in compliance with WAC 296-96-23605, are to be performed and documented in the maintenance and testing records.

NEW SECTION

WAC 296-96-24620 Landings and entrances. (1) Every landing shall be protected on all sides other than the landing opening side with a standard guard rail and intermediate guard rail. All landings except the bottom landing shall have a toe board installed on all sides except the landing opening side.

(2) All entrances shall be not less than 78 in. in height and in no case may the width exceed the corresponding car dimensions.

(3) All entrances shall be provided with an approved maze or with a hoistway gate which shall:

(a) Be at least 36 in. in height;

(b) Extend downward to within 1 in. of the landing sill;

(c) Be of the self-closing type, designed to swing horizontally out from the hoistway and closing against a full jam stop;

(d) Be located within 4 in. of the edge of the landing sill;

(e) Have a "DANGER" sign conspicuously posted on the landing side of the hoistway gate; and

(f) Withstand a 250 lb. horizontal thrust.

(4) An automatic safety device which will prevent the car from leaving the landing until manually released by the operator shall be installed at the bottom landing.

(5) Adequate lighting shall be installed and operating at each landing.

Note: For the purpose of this section "adequate lighting" means 5 foot-candles.

NEW SECTION

WAC 296-96-24630 Habitable space beneath the car and counterweight. There shall not be habitable space below an elevator hoistway or counterweight shaft unless the floor above the space can withstand the impact of a freely falling car with rated load or counterweight.

NEW SECTION

WAC 296-96-24635 Guide rails. (1) There shall be a minimum of 2 opposing guide rails extending to a point 6 in. beyond the full height of travel of the car when the counterweight buffer is fully compressed.

(2) All rails shall be attached by bolts, lag screws or other approved methods to a vertical supporting member which shall not exceed 1/2 in. deflection with the application of a 250 lb. horizontal thrust at any point.

(3) Wood guide rails shall be at least 1 1/2 in. x 1 1/2 in. vertical grain fir or equivalent and shall not vary more than 3/16 in. in thickness on the sides which the brakes contact. All joints shall be kept smooth and even.

NEW SECTION

WAC 296-96-24640 Buffers. (1) Spring buffers shall be installed below the car and counterweights.

(2) The maximum run-by of the car shall not exceed 8 in. above the top landing when the counterweight buffer spring is fully compressed.

NEW SECTION

WAC 296-96-24645 Car construction. (1) The car shall be built to the following specifications:

(a) The car platform shall be no greater than 30 in. on either side (6.25 ft²);

(b) The car frame and platform shall be of steel or sound seasoned wood construction and be designed with a safety factor of not less than 4 for metal and 6 for wood, based on a maximum capacity of 250 lbs.;

(c) All frame members shall be securely bolted, riveted or welded and braced. If bolted, lock washers or lock nuts shall be used;

(d) Where wooden frame members are bolted, large washers or metal plates shall be used to minimize the possibility of splitting or cracking the wood.

(2) The sides of the car shall be enclosed by a minimum of 2 safety guard rails with the top rail not less than 36 in. nor more than 42 in. from the car floor. Rails shall be capable of sustaining a horizontal thrust of 250 lbs. If solid material is used, it shall be smooth surfaced and not less than 1/2 in. thickness, if wood; not less than 16 gauge thickness, if steel; and shall be constructed from the car floor to a height of not less than 3 ft.

(a) Where the hoistway is not enclosed on the entrance side of the car, a self-locking or drop bar gate shall be provided. The car gate may be of the folding type, horizontally swung, provided it swings into the car enclosure. Drop bar gates shall be of two bar construction, parallelogram type, and conform to requirements specified for car guard rails.

(b) The car gate shall drop into locking slots or be provided with a positive locking type latch capable of withstanding a 250 lb. horizontal thrust.

(3) Every car shall have a substantial protective top. The front half may be hinged. The protective top shall be made from No. 9 U.S. wire gauge screen, No. 11 gauge expanded metal, No. 14 gauge sheet steel, 3/4 in. or heavier plywood. If made of wire screen or metal, the openings shall reject a 1/2 in. diameter ball.

(4) Every car shall have a proper rack to hold the balance weights. Weights shall be contained in the proper rack when the car is in motion.

(5) A sign bearing the following information shall be conspicuously posted within the car:

(a) Total load limit in pounds;

(b) "Maximum capacity one person"; and

(c) "For authorized personnel use only."

(6) Every car shall be equipped with a spring loaded foot brake which:

(a) Operates independently of the car safeties;

(b) Operates in both directions and will stop and hold the car and its load; and

(c) Locks the car in its position automatically whenever the operator releases the pressure on the foot pedal.

(7) Every car shall be equipped with a car safety device which:

(a) Applies to the sides of the main guide rails; and

(b) Stops and holds the car and its load immediately when the hoisting rope breaks.

(8) Every car shall have a minimum clearance of 78 in. from the top of the car platform to the bottom edge of the crosshead or any other obstruction.

(9) A tool box with minimum dimensions of 4 in. long x 3 in. deep shall be provided and firmly attached to the car structure.

(10) A fire extinguisher in proper working condition shall be available in the car.

NEW SECTION

WAC 296-96-24650 Counterweights. (1) The assembly of sectional counterweights shall conform to the following requirements:

(a) Rectangular counterweights shall be held together by at least 2 tie rods 1/2 in. in diameter fastened with lock washers and double nuts or other approved means;

(b) One 3/4 in. rod may be used to hold the sections of a round counterweight together. Any additional sections or weights shall be secured by an approved means.

(2) The eye bolt for the rope hitch shall be attached to the counterweight in a manner that will prevent the eye bolt from coming loose. The eye of eye bolts shall be welded to prevent it from opening.

(3) Every counterweight runway shall be enclosed with substantial unperforated material for its full distance of travel. Inspection openings shall be provided at either the top or bottom of the counterweight runway. These openings shall be substantially covered at all times except when actually being used for inspection of counterweight fastenings.

(4) Workers shall load the counterweight for the proper balance of the heaviest person using the elevator and others shall use compensating weights, which shall be available to maintain a balance.

(5) On elevators with a travel of 75 ft. or more, a compensation chain or cable shall be installed to maintain the proper balance of the counterweight to the car and load in all positions.

NEW SECTION

WAC 296-96-24655 Sheaves and supporting members. (1) The minimum sheave diameter shall be 40 times the diameter of the rope used. For example, a 3/8 in. rope requires a 15 in. diameter sheave.

(2) The overhead supporting members shall be designed, based upon impact loads, with a safety factor of:

- (a) 9 If wood; and
- (b) 5 If steel.

NEW SECTION

WAC 296-96-24660 Suspension means. (1) Hoisting ropes shall be of good grade traction elevator wire rope and shall:

- (a) Be not less than 3/8 in. in diameter.
- (b) Provide a safety factor of 5 based on the maximum weight supported.
- (c) Be of sufficient length to prevent the counterweight from striking the overhead structure when the car is at the bottom, and prevent the car from striking the overhead before the counterweight is at its lower limit of travel.

(2) Cable fastenings shall be by babbitted tapered elevator sockets or other acceptable methods approved by the department. If cable clamps are used, a minimum of 3 cable clamps shall be provided. U-shaped clamps shall not be acceptable.

Where passed around a metal or other object less than 3 times the diameter of the cable, a thimble of the correct size shall be inserted in the eye.

(3) Approved sockets or fittings with the wire properly turned back and babbitted shall be used in place of clamps noted in subsection (1)(d) of this section.

NEW SECTION

WAC 296-96-24665 Operating ropes. The operating rope shall be of soft hemp, nylon or cotton at least 3/4 in. in diameter. It shall be securely fastened at each end and shall be in proper vertical alignment to prevent bending or cutting where it passes through the openings in the platform or the protective top of the car.

NEW SECTION

WAC 296-96-24670 Hoistway requirements. (1) Escape ladders shall be installed and shall extend the full length of the hoistway.

(a) Ladders shall be installed in a manner to provide access to an emergency exit and shall be located in a position

so that in an emergency a person can safely transfer from the car platform to the ladder.

Note: Transfer is considered safe when a person can maintain 3 points of contact while making the transfer.

(b) An "IMPAIRED CLEARANCE" sign shall be posted at the bottom of a ladder when the face of the ladder is less than 30 in. from any structure.

(2) The minimum clearance between a car side and the hoistway enclosure is 1 in.

(3) The clearance between a car platform and a landing sill shall be at least 1/2 in. but not more than 1 1/2 in.

Subpart XIV

Casket Lifts

Note: As a minimum, all such lifts currently installed shall comply with this section. These conveyances are intended to be used only in mortuaries where moving of caskets is necessary. New casket lifts shall comply with either ASME A17.1/CSA B44 Part 7 or with this chapter, Part C1.

NEW SECTION

WAC 296-96-24700 Scope. The rules in this section apply to existing hoisting and lowering mechanisms equipped with cars that:

- (1) Move within guides in a substantially vertical direction;
- (2) Have a maximum net inside area of 28 ft²;
- (3) Have a maximum total internal height of 48 in. and a maximum total internal width of 36.5 in.; and
- (4) Utilize a series of rollers as a platform to exclusively carry caskets;
- (5) Are provided with a hoistway enclosure, and related construction that are in substantial compliance with the building code.

NEW SECTION

WAC 296-96-24703 Minimum maintenance requirements. Owners of casket lifts are responsible for ensuring that:

- (1) The lift and their parts are maintained in a safe condition; and
- (2) All devices and safeguards required by these regulations are maintained in good working order.

NEW SECTION

WAC 296-96-24706 Machine rooms and machinery space. (1) Machines and control equipment shall be located:

- (a) Inside a hoistway enclosure, at the top or bottom, without enclosures and platforms; or
- (b) Outside a hoistway if enclosed with a noncombustible material to a height of at least 72 in.

(2) Machines and control equipment located outside the hoistway shall be enclosed in noncombustible material not less than 72 in. high and have a self-closing and locking door. Control equipment located outside the hoistway shall be enclosed in a metal cabinet equipped with a panel door capa-

ble of being locked in the closed position to prevent unauthorized access.

(3) Permanent electric lighting shall be provided in all machine rooms and machinery spaces.

NEW SECTION

WAC 296-96-24709 Equipment in machine rooms/spaces. Only machinery and equipment required for the operation of the lift is permitted in the lift machine room.

NEW SECTION

WAC 296-96-24712 Electrical wiring, pipes and ducts in hoistways and machine rooms. (1) Only electrical wiring raceways and cables directly related to a lift's operation may be installed inside the hoistway.

(2) Pipes or ducts that convey gases, vapors, or liquids and are not used in connection with the lift shall not be installed in any hoistway, machine room, or machinery space.

(3) Machinery and sheave beams, supports, and foundations shall be designed to support the loads imposed on equipment.

NEW SECTION

WAC 296-96-24715 Pits. A pit is not required in a casket lift hoistway.

NEW SECTION

WAC 296-96-24718 Hoistway door openings. (1) The width and height of door openings shall not exceed the width and height of the car by more than 1 in. in each dimension; except one door opening may be of sufficient size to permit installing and removing the car, but shall not be more than 57 in. in height.

(2) The bottom of the door opening shall be not less than 24 in. above the floor.

NEW SECTION

WAC 296-96-24721 Hoistway door installation. Hoistway doors shall be hung and guided in such a manner that the doors will not be displaced from the guides or tracks when in normal service nor when the doors are subjected to a constant horizontal force of 250 lbs. applied at right angles to and approximately at the center of the door or to the center of each door section where multisection doors are used.

NEW SECTION

WAC 296-96-24724 Hoistway door clearances. Hoistway doors shall be located so that the distance from the hoistway face of the doors to the landing sill shall not be more than 2.5 in.

NEW SECTION

WAC 296-96-24727 Hoistway door locking devices. All hoistway doors shall be equipped with a combination mechanical lock and electric contact or door interlock.

NEW SECTION

WAC 296-96-24730 Protection of space beneath hoistway. Where the space below the hoistway is used for a passageway or is occupied by people, or if unoccupied is not secured against unauthorized access, the cars and counterweights shall be equipped with safeties which shall be operated as a result of the breaking of the suspension means. Safeties may be of the inertia type without governors.

NEW SECTION

WAC 296-96-24733 Car doors and gates. There shall not be more than two entrances to the car.

(1) Each entrance shall be provided with a car door or gate which when in a fully closed position shall protect the full width and height of the car entrance opening.

(2) Collapsible type gates, when in a fully closed position, shall reject a 4.5 in. diameter ball.

NEW SECTION

WAC 296-96-24736 Car enclosure. (1) Lift platforms shall be permanently enclosed on all sides and the top.

(2) The enclosure shall be securely fastened to the platform and so supported that it cannot loosen or become displaced in ordinary service.

(3) The enclosure walls shall be of sufficient strength and designed and supported so that when subjected to a pressure of 75 lbs. applied horizontally at any point on the walls of the enclosure, the deflection will not reduce the running clearance to exceed 1 in.

(4) The top of the car enclosure shall be designed and installed so as to be capable of sustaining a load of 300 lbs. on any square area 24 in. on a side and 100 lbs. applied at any point. Simultaneous application of these loads is not required.

NEW SECTION

WAC 296-96-24739 Construction of car frames and platforms. (1) Every lift suspended by wire ropes shall have a car frame consisting of a crosshead, uprights (stiles) and a plank located approximately at the middle of the car platform and in no case farther from the middle than 1/8 of the distance from the front of the platform.

(2) Car frames shall be guided on each guide rail by upper and lower guiding members attached to the frame.

(3) Car frames and outside members of the platform shall be made of steel.

NEW SECTION

WAC 296-96-24742 Connecting car frames to platforms. Connections between members of the car frames and platform shall be riveted, bolted, or welded and shall meet the following specifications:

(1) Where used through sloping flanges of structural members bolt heads shall be of the tipped head type or shall be fitted with beveled washers.

(2) Nuts used on sloping flanges of structure members shall seat on beveled washers.

(3) Welding of parts upon which safe operation depends shall be done in accordance with the appropriate standards established by the American Welding Society.

NEW SECTION

WAC 296-96-24745 Capacity. (1) Driving machines, car and counterweight suspension mechanisms, and overhead beams and supports shall be able to sustain a car with a structure load capacity based upon the manufacturer's design criteria.

(2) A metal plate which gives the rated load in letters and figures not less than 0.25 in. high stamped, etched or raised on the surface of the plate shall be fastened in a conspicuous place in the car.

NEW SECTION

WAC 296-96-24748 Driving machines. Only drum, traction or plunger type driving machines may be used.

NEW SECTION

WAC 296-96-24751 Material and grooving for sheaves and drums. Material and grooving for sheaves and drums shall be of metal finished grooves and have a pitch diameter not less than 40 times the diameter of the rope.

NEW SECTION

WAC 296-96-24754 Brakes. Lift driving machines shall be equipped with a friction brake applied by a spring or springs and released electrically. The brake shall be designed to have a capacity sufficient to hold the car at rest with its rated load.

NEW SECTION

WAC 296-96-24757 Terminal stopping devices. (1) Upper and lower normal stopping devices shall be provided at the top and bottom of the hoistway.

(2) Final terminal stopping devices shall be provided and arranged to remove electric power to the lift driving machine motor and brake after the car has passed a terminal landing. Under normal operating conditions the final terminal stopping device shall not function when the car is stopped by the normal terminal stopping device.

(3) Lifts having traction machines shall have final terminal stopping switches located in the hoistway and operated by cams attached to the car.

(4) Lifts having winding drum machines shall have terminal stopping switches located on and operated by the driving machine, which shall not be driven by chain, rope or belt. Also, stopping switches shall be installed in the hoistway and operated by cams attached to the car or counterweights.

(5) Lifts having winding drum machines shall have a slack rope device with an electric switch of the enclosed manually reset type which will cause the electric power to be removed from the driving machine motor and brake if the hoisting ropes become slack.

NEW SECTION

WAC 296-96-24760 Suspension means. (1) Lifts and counterweights shall be suspended by steel wire ropes. Only iron (low carbon steel) or steel wire ropes with fiber cores, having the commercial classification of "elevator wire rope" may be used for the suspension of lifts and for the suspension of counterweights.

(2) The minimum number of hoisting ropes is:

(a) Three .5 in. ropes for traction elevators; and

(b) Two .5 in. ropes for drum type elevators.

(3) Fastenings shall be by individual tapered babbitted rope sockets or by other department-approved types.

(4) The rope sockets shall be of a type which will develop at least 80 percent of the breaking strength of the strongest rope to be used in such fastenings. U-bolt type rope clips (clamps) shall not be used for load line fastenings.

NEW SECTION

WAC 296-96-24765 Hydraulic casket lifts. (1) All hydraulic lifts shall be a plunger type with the plunger securely attached to the car platform.

(2) Plungers composed of more than one section shall have the joints designed and constructed to carry in tension the weight of all plunger sections below the joints.

(3) Plungers shall be provided with solid metal stops to prevent the plunger from traveling beyond the limits of the cylinder. Stops shall be designed and constructed so as to stop the plunger from maximum speed in the "up" direction under full pressure without damage to the hydraulic system.

(4) Any leaking hydraulic oil shall be collected.

NEW SECTION

WAC 296-96-24770 Valves, supply piping and fittings. (1) Valves, piping and fittings shall not be subjected to working pressures that exceed manufacturer recommendations.

(2) Pipes, especially those that may vibrate, shall be sufficiently supported at each joint and fitting so undue stress is eliminated.

(3) A shut-off valve shall be installed in the pit.

(4) Each pump shall be equipped with a relief valve and all relief valves shall be:

(a) Located between the pump and check valve in a bypass connection;

(b) A type that cannot be shut off from the hydraulic system; and

(c) Preset to open at a pressure not greater than 125 percent of the working pressure at the pump.

EXCEPTION: Relief valves are not required for centrifugal pumps driven by an induction motor when the shutoff or maximum pressure that the pump develops is no more than 135 percent of the working pressure at the pump.

(5) A check valve shall be installed that will hold a car and its rated load at any point whenever a pump stops or pump operating pressure drops below the required minimum.

NEW SECTION

WAC 296-96-24775 Stopping devices. Normal stopping devices operated by cams attached to the car shall be installed at the top and bottom of the hoistway. Final terminal stopping devices and anticreep leveling devices are not required.

NEW SECTION

WAC 296-96-24780 Operating devices. Only constant pressure or automatic type operating devices located outside the hoistway may be used.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-96-01012	What are the permit fees for alterations to conveyances, material lifts, and hoists and how are they calculated?	WAC 296-96-02486	ASME A17.1-5.7.10.5 Special purpose elevator car doors or gates.
WAC 296-96-01050	How do I get a supplemental inspection?	WAC 296-96-02495	Are self-leveling devices required?
WAC 296-96-02401	ASME A17.1-8.7.1 Alteration general requirements.	WAC 296-96-02500	Is a door reopening device required on automatic-closing car doors?
WAC 296-96-02411	ASME A17.1-8.7.2.13 Door reopening devices.	WAC 296-96-02505	What is the minimum acceptable initial transfer time for an elevator door?
WAC 296-96-02420	What are the requirements for temporary construction operating permits?	WAC 296-96-02510	What are the minimum cab size and other applicable requirements for car interiors?
WAC 296-96-02450	Can pipes and ducts be installed above a machine room?	WAC 296-96-02515	What is required for car controls?
WAC 296-96-02451	When a control space is used in lieu of a machine room.	WAC 296-96-02520	What are the location and operation requirements for car position indicators in the car?
WAC 296-96-02455	What is the minimum working space required in machine rooms/control rooms?	WAC 296-96-02535	What requirements apply to floor designations on elevator door jambs?
WAC 296-96-02466	ASME A17.1-8.9 Code data plate location and material.	WAC 296-96-02540	What are the installation and operation requirements for hall buttons?
WAC 296-96-02475	What are the requirements for sprinklers in hoistways and machine rooms?	WAC 296-96-02545	What are the requirements for installation and operation of hall lanterns?
WAC 296-96-02480	How does the department enforce ASME requirements for sprinklers, smoke detectors, and heat detectors in hoistways and machine rooms?	WAC 296-96-02550	ASME A17.1-3.18.3.8.3 and ASME A17.1-8.7.3.23.1—What are the requirements for underground hydraulic elevator pipes, fittings, and cylinders?
WAC 296-96-02485	What is required for emergency escape hatches?	WAC 296-96-02551	ASME A17.1-2.6 and ASME A17.1-8.7.2.6 Protection of spaces below hoistways.
		WAC 296-96-02555	What are the requirements for accessing elevated elevator pit equipment?
		WAC 296-96-02556	Minimum width, clearances, and access of pit ladders.
		WAC 296-96-02557	Pit lighting and stop switch.
		WAC 296-96-02560	What are the requirements for submersible pumps or sumps?
		WAC 296-96-02564	ASME A17.1-2.4.12.1-2005 Distance required for car top refuge space.
		WAC 296-96-02566	ASME A17.1-2.14.7.1.4 Requirements for top of car lighting and receptacle for elevators.
		WAC 296-96-02567	ASME A17.1-2.7.6.3.4 Access to governors and brake.
		WAC 296-96-02568	ASME A17.1-5.3.1.1 Residential hoistway enclosures.

WAC 296-96-02570	How do we enforce hoistway ventilation?	WAC 296-96-07100	What construction requirements apply to inclined private residence elevators?
WAC 296-96-02575	How do we enforce hoistway pressurization?	WAC 296-96-07110	What construction requirements apply to car enclosures?
WAC 296-96-02585	What are the requirements for fire doors installed in front of hoistway doors?	WAC 296-96-07120	What construction requirements apply to car doors and gates?
WAC 296-96-02595	What are the general requirements for LULA elevators?	WAC 296-96-07130	What type of glass or plastic can be used in a car enclosure?
WAC 296-96-02600	What is required for physically handicapped lifts?	WAC 296-96-07140	Are capacity and data plates required?
WAC 296-96-02620	Private residence vertical platform lifts.	WAC 296-96-07160	What construction requirements apply to counterweights?
WAC 296-96-02625	Private residence incline platform lifts.	WAC 296-96-07170	What are the requirements of safeties and governors?
WAC 296-96-02630	Commercial vertical and incline platform lifts.	WAC 296-96-07171	How and when are safeties and governors tested?
WAC 296-96-05009	What are the requirements for existing material lifts?	WAC 296-96-07180	What are the construction requirements for driving machines and sheaves?
WAC 296-96-07010	What is the scope of Part C-2?	WAC 296-96-07190	What construction requirements apply to terminal stopping switches?
WAC 296-96-07020	What is the definition for inclined private residence elevator?	WAC 296-96-07200	What are the requirements for operation of an inclined private residence elevator?
WAC 296-96-07021	What are the requirements for existing inclined private residence elevators?	WAC 296-96-07210	What are the construction requirements for suspension methods?
WAC 296-96-07024	What rules apply to alterations of inclined private residence elevators?	WAC 296-96-07215	What are the requirements for controllers?
WAC 296-96-07030	Does the department approve private residence elevator plans and specifications?	WAC 296-96-07220	What are the requirements for traveling cables?
WAC 296-96-07035	What are the minimum maintenance requirements for inclined private residence elevators?	WAC 296-96-07230	What requirements apply to electrical wiring?
WAC 296-96-07040	What are the clearance requirements for an incline runway?	WAC 296-96-07240	What are the requirements for track supporting structures?
WAC 296-96-07050	What are the construction requirements for car landing enclosures and gates for inclined private residence elevators?	WAC 296-96-07250	What additional requirements apply to inclined private residence elevators?
WAC 296-96-07060	What types of bumpers and buffers must be installed on inclined private residence elevators?	WAC 296-96-08010	What is the scope of Part C-3?
WAC 296-96-07070	What are the requirements for machinery beams and supports?	WAC 296-96-08020	What is the definition for inclined private residence conveyances for transporting property?
WAC 296-96-07080	What are the load and size requirements for car platforms?	WAC 296-96-08022	What are the requirements for existing inclined private residence conveyances for transporting property?
WAC 296-96-07090	What is the maximum rated speed of an incline elevator?	WAC 296-96-08024	What rules apply to alterations of inclined private residence conveyances for transporting property?

WAC 296-96-08030	Does the department approve elevators plans and specifications for inclined private residence conveyances for transporting property?	WAC 296-96-08215	What are the requirements for controllers?
WAC 296-96-08035	What are the minimum maintenance requirements for inclined private residence elevators for transporting property?	WAC 296-96-08220	What are the requirements for traveling cables?
WAC 296-96-08050	What are the construction requirements for inclined private residence conveyances for transporting property for cars, landing gates, and enclosures?	WAC 296-96-08230	What requirements apply to electrical wiring?
WAC 296-96-08060	What types of bumpers and buffers must be installed on inclined private residence conveyances for transporting property?	WAC 296-96-08240	What are the requirements for track supporting structures?
WAC 296-96-08070	What are the requirements for machinery beams and supports?	WAC 296-96-08250	What additional requirements apply to inclined private residence conveyances for transporting property?
WAC 296-96-08080	What are the load and size requirements for car platforms?	WAC 296-96-09001	What regulations apply to personnel hoists?
WAC 296-96-08090	What is the maximum rated speed of an inclined conveyance?	WAC 296-96-09002	May a drop plate be used for temporary hoists?
WAC 296-96-08100	What requirements apply to inclined conveyance?	WAC 296-96-09003	What are the requirements for landing gates?
WAC 296-96-08110	What requirements apply to car enclosures?	WAC 296-96-09004	Do jumps (increased travel) have to be inspected?
WAC 296-96-08140	Are capacity and data plates required on inclined private residence conveyances for transporting property?	WAC 296-96-10001	What regulations apply to material hoists?
WAC 296-96-08150	What are the requirements for guide rails, track supports and fastenings?	WAC 296-96-10002	Do jumps (increased travel) have to be inspected?
WAC 296-96-08160	What requirements apply to counterweights?	WAC 296-96-11001	What regulations apply to belt manlifts?
WAC 296-96-08170	What are the requirements of safeties and governors?	WAC 296-96-11010	What are the definitions for belt manlifts?
WAC 296-96-08175	How and when are conveyance safeties tested?	WAC 296-96-11016	What general requirements apply to belt manlift landings?
WAC 296-96-08180	What are the requirements for driving machines and sheaves?	WAC 296-96-11019	What requirements apply to the guards and cones of belt manlift landings?
WAC 296-96-08190	What requirements apply to terminal stopping switches?	WAC 296-96-11022	What requirements apply to guarding lift entrances and exits?
WAC 296-96-08200	What are the requirements for the activation and operation of an inclined private residence conveyances for transporting property?	WAC 296-96-11025	What structural requirements apply to floor opening guards?
WAC 296-96-08210	What are the requirements for suspension methods?	WAC 296-96-11028	What structural requirements apply to floor landing guards?
		WAC 296-96-11031	What requirements apply to bottom landings?
		WAC 296-96-11034	What requirements apply to top clearance?
		WAC 296-96-11037	What requirements apply to emergency exit ladders?
		WAC 296-96-11040	What lighting requirements apply to belt manlifts?
		WAC 296-96-11045	What drive machine requirements apply to belt manlifts?

WAC 296-96-11048	What is an acceptable operating speed for a belt manlift?	WAC 296-96-13171	What other requirements apply to electric manlifts?
WAC 296-96-11051	What are the construction requirements for steps?	WAC 296-96-14010	What is the scope and application of the department's hand-powered manlift rules?
WAC 296-96-11054	What requirements apply to the location and construction of handholds?	WAC 296-96-14011	What are the minimum maintenance requirements for hand powered manlifts?
WAC 296-96-11057	What requirements apply to "up-limit stops"?	WAC 296-96-14020	What construction requirements apply to hoistway landings and entrances?
WAC 296-96-11060	What requirements apply to emergency stops?	WAC 296-96-14025	What are acceptable hoistway clearances?
WAC 296-96-11066	What are the warning sign requirements?	WAC 296-96-14030	Can there be a habitable space beneath an elevator hoistway or counterweight shaft?
WAC 296-96-11070	Can you carry tools and materials on a belt manlift?	WAC 296-96-14035	What construction requirements apply to hoistway guide rails?
WAC 296-96-11078	What is required for belt manlift inspections?	WAC 296-96-14040	What installation requirements apply to buffer springs?
WAC 296-96-13135	What are the requirements for electric manlifts?	WAC 296-96-14045	What construction specifications apply to hoistway cars?
WAC 296-96-13136	What are the minimum maintenance requirements for electric manlifts?	WAC 296-96-14050	What are the requirements for assembly, installation, and operation of sectional counterweights?
WAC 296-96-13139	What structural requirements apply to hoistway enclosures and landings?	WAC 296-96-14055	What is the minimum acceptable sheave diameter?
WAC 296-96-13143	What structural requirements apply to hoistway gates and doors?	WAC 296-96-14060	What requirements apply to hoisting ropes?
WAC 296-96-13145	What structural requirements apply to elevator cars?	WAC 296-96-14065	What requirements apply to operating ropes?
WAC 296-96-13147	What structural requirements apply to elevator doors?	WAC 296-96-14070	Where must hoistway lights be located?
WAC 296-96-13149	What are the structural requirements for counterweights, counterweight enclosures, and counterweight fastenings?	WAC 296-96-14075	What is the factor of safety for overhead supports?
WAC 296-96-13151	What construction requirements apply to car guide rails?	WAC 296-96-14080	What additional requirements apply to the installation and operation of hand powered manlifts?
WAC 296-96-13153	What construction requirements apply to hoisting ropes?	WAC 296-96-16010	What is the scope of the department's casket lift regulations?
WAC 296-96-13155	What are the requirements for a hoistway space?	WAC 296-96-16011	What are the minimum maintenance requirements for casket lifts?
WAC 296-96-13157	What requirements apply to car safeties?	WAC 296-96-16020	What requirements apply to the location and operation of machine rooms and machinery space?
WAC 296-96-13159	What requirements apply to brakes?	WAC 296-96-16030	What equipment can be located in a machine room?
WAC 296-96-13161	What requirements apply to car controls and safety devices?		
WAC 296-96-13167	What requirements apply to elevator driving machines?		
WAC 296-96-13169	What requirements apply to car and counterweight buffers?		

WAC 296-96-16040	What requirements apply to the location of electrical wiring, pipes and ducts in hoistways and machine rooms?	WAC 296-96-23111	Are guards required for windows in hoistway enclosures?
WAC 296-96-16050	Is a pit required in a casket lift hoistway?	WAC 296-96-23113	What are the requirements for pipes in hoistways that convey gases, vapors, or liquids?
WAC 296-96-16060	What requirements apply to the size and location of hoistway door openings?	WAC 296-96-23121	What are the requirements for machine room and machinery space access?
WAC 296-96-16070	How must hoistway doors be hung?	WAC 296-96-23124	What installation requirements apply to pipes conveying gases, vapors, or liquids in machine rooms and machinery spaces?
WAC 296-96-16080	Where must hoistway doors be located?	WAC 296-96-23125	Must elevator machines and control equipment be protected from the weather?
WAC 296-96-16090	What requirements apply to hoistway doors locks?	WAC 296-96-23131	What requirements apply to pit drains?
WAC 296-96-16100	How should space beneath a hoistway be protected?	WAC 296-96-23133	What requirements apply to counterweight pit guards?
WAC 296-96-16110	What requirements apply to car doors and gates?	WAC 296-96-23140	What requirements apply to any space below a hoistway that is not permanently protected from access?
WAC 296-96-16120	What requirements apply to car enclosures?	WAC 296-96-23150	Are hoistway doors (gates) required?
WAC 296-96-16130	What requirements apply to the construction of car frames and platforms?	WAC 296-96-23151	What requirements apply to hoistway door closing devices?
WAC 296-96-16140	How must car frames and platforms be connected?	WAC 296-96-23152	What requirements apply to hoistway door vision panels?
WAC 296-96-16150	What is the load capacity of a casket lift car?	WAC 296-96-23153	What requirements apply to door hangers for horizontal slide doors?
WAC 296-96-16160	What types of casket lift driving machines are allowed?	WAC 296-96-23154	Are astragals required?
WAC 296-96-16170	What material and grooving is required for sheaves and drums?	WAC 296-96-23155	What requirements apply to pull straps?
WAC 296-96-16180	What types of brakes must be used on the driving machine?	WAC 296-96-23156	What requirements apply to landing sill clearances?
WAC 296-96-16190	Where must terminal stopping devices be located?	WAC 296-96-23157	What is the maximum allowable threshold clearance?
WAC 296-96-16200	What are the specifications for casket lift ropes and rope connections?	WAC 296-96-23160	What requirements apply to hoistway door (gate) locking devices?
WAC 296-96-16210	What specific requirements apply to hydraulic casket lifts?	WAC 296-96-23161	What requirements apply to elevator parking devices?
WAC 296-96-16220	What requirements apply to valves, supply piping, and fittings?	WAC 296-96-23162	What requirements apply to hoistway door unlocking devices?
WAC 296-96-16230	What type of stopping devices must be installed?	WAC 296-96-23165	What requirements apply to reopening devices for power-operated car doors and gates?
WAC 296-96-16240	What type of operating devices must be used?	WAC 296-96-23166	What requirements apply to photo electric or electric eye door reopening devices?
WAC 296-96-23105	What is the scope of Subpart I?		
WAC 296-96-23110	What structural requirements apply to hoistway enclosures?		

WAC 296-96-23203	What requirements apply to buffers and bumpers?	WAC 296-96-23250	What general requirements apply to driving machines and sheaves?
WAC 296-96-23206	What requirements apply to car platforms and frames?	WAC 296-96-23255	What requirements apply to winding drum machines?
WAC 296-96-23207	What requirements apply to platform guards (aprons)?	WAC 296-96-23256	What requirements apply to indirect-drive machines?
WAC 296-96-23208	What requirements apply to hinged platform sills?	WAC 296-96-23260	What requirements apply to driving machine brakes?
WAC 296-96-23209	What requirements apply to floating (movable) platforms?	WAC 296-96-23261	What requirements apply to the application and release of driving machine brakes?
WAC 296-96-23215	What requirements apply to car enclosures?	WAC 296-96-23262	What requirements apply to normal terminal stopping devices?
WAC 296-96-23216	What requirements apply to the lining materials used on passenger car enclosures?	WAC 296-96-23264	What requirements apply to final terminal-stopping devices?
WAC 296-96-23220	What requirements apply to car doors and gates?	WAC 296-96-23266	What types of operating devices must not be used?
WAC 296-96-23221	What requirements apply to the location of car doors and gates?	WAC 296-96-23268	What requirements apply to car-switch operation elevators?
WAC 296-96-23222	What control requirements apply to operating circuits?	WAC 296-96-23269	What requirements apply to passenger elevator emergency stop buttons?
WAC 296-96-23225	What requirements apply to car emergency exits?	WAC 296-96-23270	What requirements apply to car top operating devices?
WAC 296-96-23226	What requirements apply to car lighting?	WAC 296-96-23272	What electrical protective devices are required?
WAC 296-96-23227	What requirements apply to car safeties?	WAC 296-96-23274	What requirements apply to the power supply line disconnect?
WAC 296-96-23228	What is the maximum amount of governor rope movement allowed when operating a safety mechanism?	WAC 296-96-23276	What requirements apply to phase reversal and failure protection methods?
WAC 296-96-23229	What requirements apply to rail lubricants and lubrication plates?	WAC 296-96-23277	What requirements apply to grounding and overcurrent protections?
WAC 296-96-23235	What requirements apply to speed governors?	WAC 296-96-23278	What requirements apply to the absorption of regenerated power?
WAC 296-96-23236	What requirements apply to speed governor overspeed and car safety mechanism switches?	WAC 296-96-23279	What requirements apply to door by-pass systems?
WAC 296-96-23240	What is the minimum rated load for passenger elevators?	WAC 296-96-23280	What requirements apply to all car emergency signaling devices in all buildings?
WAC 296-96-23241	What requirements apply to the use of partitions that reduce inside net platform area?	WAC 296-96-23282	What requirements apply to suspension systems?
WAC 296-96-23243	What is the minimum rated load for freight elevators?	WAC 296-96-23284	What is the factor of safety for wire suspension ropes?
WAC 296-96-23244	What requirements apply to capacity plates?	WAC 296-96-23285	What is the minimum number of suspension ropes allowed?
WAC 296-96-23245	What requirements apply to signs on freight elevators?	WAC 296-96-23287	What requirements apply to suspension rope equalizers?

WAC 296-96-23288	What requirements apply to securing suspension wire ropes to winding drums?	WAC 296-96-23336	What requirements apply to power supply line disconnects?
WAC 296-96-23289	What requirements apply to spare rope turns on winding drum machines?	WAC 296-96-23338	What requirements apply to devices that make hoistway door interlocks or electric contacts and car door (gate) electric contacts inoperative?
WAC 296-96-23290	What requirements apply to suspension rope fastenings?	WAC 296-96-23340	What requirements apply to control and operating circuits?
WAC 296-96-23291	What requirements apply to auxiliary rope fastening devices?	WAC 296-96-23342	What requirements apply to emergency operation and signaling devices?
WAC 296-96-23300	What is the scope of Subpart III, Hydraulic Elevators?	WAC 296-96-23344	What additional requirements apply to counterweighted hydraulic elevators?
WAC 296-96-23302	What requirements apply to hoistways, hoistway enclosures and related construction?	WAC 296-96-23400	What is the scope of Subpart IV, Escalators?
WAC 296-96-23304	What requirements apply to buffers and bumpers?	WAC 296-96-23405	What requirements apply to balustrades?
WAC 296-96-23307	What requirements apply to car frames and platforms?	WAC 296-96-23408	How much clearance is required between skirt panels and step treads?
WAC 296-96-23309	What requirements apply to car enclosures?	WAC 296-96-23410	What requirements apply to guards at ceiling or soffit intersections?
WAC 296-96-23311	What requirements apply to capacity and loading?	WAC 296-96-23412	What requirements apply to anti-slide devices?
WAC 296-96-23313	What requirements apply to driving machine connections?	WAC 296-96-23414	What requirements apply to handrails?
WAC 296-96-23316	What requirements apply to plunger stops?	WAC 296-96-23416	What requirements apply to hand-rail guards?
WAC 296-96-23318	What requirements apply to pump relief valves?	WAC 296-96-23418	What requirements apply to step riser slotting?
WAC 296-96-23321	What requirements apply to check valves?	WAC 296-96-23420	What requirements apply to step tread slotting?
WAC 296-96-23322	What requirements apply to supply piping and fittings?	WAC 296-96-23422	What requirements apply to comb-plates?
WAC 296-96-23323	What requirements apply to flexible hydraulic connections?	WAC 296-96-23424	What general requirements apply to escalator brakes?
WAC 296-96-23324	What general requirements apply to tanks?	WAC 296-96-23427	What requirements apply to main drive shaft brakes?
WAC 296-96-23325	What requirements apply to pressure tanks?	WAC 296-96-23429	What requirements apply to starting switches?
WAC 296-96-23326	What requirements apply to terminal stopping devices?	WAC 296-96-23431	What requirements apply to emergency stop buttons?
WAC 296-96-23328	What requirements apply to operating devices?	WAC 296-96-23432	What requirements apply to speed governors?
WAC 296-96-23330	What requirements apply to car top operating devices?	WAC 296-96-23434	What requirements apply to broken step-chain devices?
WAC 296-96-23332	What requirements apply to anti-creep leveling devices?	WAC 296-96-23436	What requirements apply to brake applications?
WAC 296-96-23334	What requirements apply to electrical protective devices?		

WAC 296-96-23438 What requirements apply to broken drive-chain devices?

WAC 296-96-23440 What requirements apply to skirt obstruction devices?

WAC 296-96-23442 What requirements apply to rolling shutter devices?

WAC 296-96-23444 What requirements apply to reversal stop device?

WAC 296-96-23446 What requirements apply to tandem operations?

WAC 296-96-23448 What requirements apply to caution signs?

WAC 296-96-23450 What requirements apply to step tread lighting?

WAC 296-96-23455 What requirements apply to comb and step distinction?

WAC 296-96-23460 What requirements apply to safety zone?

WAC 296-96-23465 What requirements apply to landing access plates?

WAC 296-96-23500 What is the scope of Subpart V, Dumbwaiters and hand-powered elevators?

WAC 296-96-23510 What requirements apply to electric and electro-hydraulic dumbwaiters?

WAC 296-96-23540 What requirements apply to hand-power elevators and dumbwaiters?

WAC 296-96-23600 What is the scope of Part VI, Alterations, Repairs and Maintenance?

WAC 296-96-23601 ASME A17.1-8.6.1.2.1 General maintenance requirements for conveyances regulated by ASME A17.1 Part 8.

WAC 296-96-23602 ASME A17.1-8.6.1.4 Maintenance records.

WAC 296-96-23603 ASME A17.1-8.6.1.6.3(a) Wiring diagrams.

WAC 296-96-23604 ASME A17.1-8.6.1.7 Periodic tests.

WAC 296-96-23610 What requirements apply to routine examinations and periodic or category 01, 03, and 05 safety tests?

WAC 296-96-23620 What requirements apply to alterations, repairs and maintenance?

WAC 296-96-23621 ASME A17.1-8.7.1.7 Repairs and replacement.

WAC 296-96-23630 What requirements apply to elevator equipment displaced by seismic activity?

WAC 296-96-23710 What requirements apply to lifts for the physically handicapped?

WAC 296-96-23800 What is the scope of Subpart VIII, Sidewalk Elevators?

WAC 296-96-23810 What requirements apply to electrically operated sidewalk elevators?

WSR 18-18-078
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-221—Filed September 4, 2018, 10:07 a.m., effective October 5, 2018]

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

Purpose: The department is updating the current fish area boundaries described in WAC 220-301-030 and 220-354-080 for Puget Sound salmon fishing. Currently, physical markers listed in regulations are no longer present and need to be removed from the descriptions and the overall boundary descriptions need to be updated.

Citation of Rules Affected by this Order: Repealing [Amending] WAC 220-301-030 Puget Sound salmon management and catch reporting areas and 220-354-080 Puget Sound salmon—Closed areas.

Statutory Authority for Adoption: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, and 77.65.520.

Adopted under notice filed as WSR 18-13-115 on June 20, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: August 28, 2018.

Kelly Susewind
 Director

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-301-030 Puget Sound salmon management and catch reporting areas. (1) **Area 4B** shall include those waters of Puget Sound easterly of a line projected from the (~~Bonilla Point light~~) Carmanah Point Light (Light List No.

16140 Fl.5s182ft19M, 48°36'42.4"N, 124°45'04.8"W) on Vancouver Island to the ((~~Tatoosh Island light~~)) Cape Flattery Light on Tatoosh Island (Light List No. 16145 Fl(2)20s112ft 14M, 48°23'31.2"N, 124°44'12.9"W), thence to the most westerly point on Cape Flattery (48°22'52.1"N, 124°43'54.3"W) and westerly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River (48°17'16.1"N, 124°23'43.4"W).

(2) **Area 5** shall include those waters of Puget Sound easterly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River (48°17'16.1"N, 124°23'43.4"W) and westerly of a line projected true north from Low Point (48°09'38.9"N, 123°49'36.5"W).

(3) **Area 6** shall include those waters of Puget Sound easterly of a line projected from the Angeles Point ((~~Monument~~)) (48°09'03.3"N, 123°33'11.6"W) to the ((~~William Head light on Vancouver Island~~)) Race Rock Light (Light List No. 16225 FlW10s118ft19M, 48°17'52.9"N, 123°31'53.1"W), northerly of a line projected from the ((~~Dungeness Spit light~~)) New Dungeness Light (Light List No. 16335 FlW5s67ft18M, 48°10'54.3"N, 123°06'36.9"W) to the ((~~Partridge Point light~~)) Point Partridge Light (Light List No. 16400 FlW5s105ft13M, 48°13'28.8"N, 122°46'09.9"W), westerly of a line projected from the ((~~Partridge Point light~~)) Point Partridge Light (Light List No. 16400 Fl.W5s105ft13M, 48°13'28.8"N, 122°46'09.9"W) to the Smith Island Light (Light List No. 16375 Fl10s97ft.14M, 48°19'14.4"N, 122°49'51.4"W), and southerly of a line projected from the Smith Island Light ((~~to vessel traffic lane buoy R~~)) (Light List No. 16375 Fl.10s97ft.14M, 48°19'14.4"N, 122°49'51.4"W) to Rosario Strait traffic separation lane entrance lighted Buoy R (Light List No. 16340 FlY25s6M"RA," 48°16'25.3"N, 123°06'34.6"W) to the Trial Island Light (Light List No. 16265 FlG5s93ft13M, 48°23'42.3"N, 123°18'18.6"W).

(4) **Area 6A** shall include those waters of Puget Sound easterly of a line projected from the ((~~Partridge Point light~~)) Point Partridge Light (Light List No. 16400 FlW5s105ft13M, 48°13'28.8"N, 122°46'09.9"W) to the Smith Island Light (Light List No. 16375 Fl10s97ft14M, 48°19'14.4"N, 122°49'51.4"W) to the ((~~most~~)) northeasterly of the Lawson Reef ((~~lighted buoys (RB 1 Qk Fl Bell) to Northwest Island~~)) Junction Lighted Bell Buoy (Light List No. 19320 RGFl(2+1)R6sBell, 48°24'03.3"N, 122°42'57.7"W) to the Initiative 77 marker on Fidalgo Island (48°25'14.2"N, 122°40'04.5"W) and westerly of a line projected from Reservation Head on Fidalgo Island (48°28'41.8"N, 122°39'28.1"W) to West Point on Whidbey Island (48°24'08.4"N, 122°39'46.1"W).

(5) **Area 6B** shall include those waters of Puget Sound southerly of a line projected from the ((~~Dungeness Spit light~~)) New Dungeness Light (Light List No. 16335 FlW5s67ft18M, 48°10'54.3"N, 123°06'36.9"W) to the ((~~Partridge Point light~~)) Point Partridge Light (Light List No. 16400 FlW5s105ft13M, 48°13'28.8"N, 122°46'09.9"W) to the Point Wilson Light (Light List No. 16475 AIRW5s51ft15M, 48°08'39.0"N, 122°45'17.2"W) and easterly of a line projected ((~~155°~~)) 154

degrees true from ((~~Dungeness Spit light~~)) New Dungeness Light (Light List No. 16335 FlW5s67ft18M, 48°10'54.3"N, 123°06'36.9"W) to Kulo Kala Point (48°07'13.1"N, 123°03'58.7"W).

(6) **Area 6C** shall include those waters of Puget Sound easterly of a line projected true north from Low Point (48°09'38.9"N, 123°49'36.5"W) and westerly of a line projected from the Angeles Point ((~~Monument~~)) (48°09'03.3"N, 123°33'11.6"W) to the ((~~William Head light on Vancouver Island~~)) Race Rock Light (Light List No. 16225 FlW10s118ft19M).

(7) **Area 6D** shall include those waters of Puget Sound westerly of a line projected 155(°) degrees true from New Dungeness Spit Light (Light List No. 16335 FlW5s67ft18M, 48°10'54.3"N, 123°06'36.9"W) to Kulo Kala Point (48°07'13.1"N, 123°03'58.7"W).

(8) **Area 7** shall include those waters of Puget Sound southerly of a line projected true east-west through Sandy Point Light No. 2 ((~~48 degrees, 47.2 minutes north latitude, 122 degrees, 42.7 minutes west longitude as per U.S. Coast Guard~~)) (Light List No. 19880 Fl R 4s 16ft 4M "2," 48°47'12.4"N, 122°42'44.7"W), northerly of a line projected from the Trial Island Light ((~~to vessel traffic lane buoy R~~)) (Light List No. 16265 FlG5s93ft13M, 48°23'42.3"N, 123°18'18.6"W) to the Rosario Strait traffic separation lane entrance lighted Buoy R (Light List No. 16340 FlY2.5s6M"RA," 48°16'25.3"N, 123°06'34.6"W) to the Smith Island Light (Light List No. 16375 Fl10s97ft14M, 48°19'14.4"N, 122°49'51.4"W) to the ((~~most northeasterly of the~~)) Lawson Reef lighted buoy((~~s (RB 1 Qk Fl Bell) to Northwest Island~~)) (RGFl(2+1)R6sBell, 48°24'03.3"N, 122°42'57.7"W) to the Initiative 77 marker on Fidalgo Island (48°25'14.2"N, 122°40'04.5"W), and westerly of a line projected from Sandy Point Light ((~~No.~~)) 2 (Light List No. 19880 FlR4s16ft4M"2," 48°47'12.4"N, 122°42'44.7"W) to Point Migley (48°44'55.9"N, 122°42'54.3"W), thence along the eastern shore-line of Lummi Island to Carter Point (48°35'18.6"N, 122°38'35.0"W), thence to the most northerly tip of Vendovi Island (48°36'57.3"N, 122°36'39.1"W), thence to Clark Point (48°35'18.6"N, 122°38'35.1"W) on Guemes Island following the shoreline to Southeast Point on Guemes Island (48°31'43.4"N, 122°34'25.8"W), thence to March Point on Fidalgo Island (48°29'58.4"N, 122°33'55.8"W), excluding those waters of East Sound northerly of a line projected ((~~due~~)) true west from Rosario Point on Orcas Island (48°38'36.5"N, 122°52'26.2"W).

(9) **Area 7A** shall include those waters of Puget Sound northerly of a line projected true east-west through Sandy Point Light ((~~No.~~)) 2 ((~~48 degrees, 47.2 minutes north latitude, 122 degrees, 42.7 minutes west longitude as per U.S. Coast Guard Light List No. 19880~~)) (Light List No. 19880 FlR4s16ft4M"2," 48°47'12.4"N, 122°42'44.7"W), terminating on the west at the International Boundary and on the east at the landfall on Sandy Point.

(10) **Area 7B** shall include those waters of Puget Sound westerly of a line projected 154 degrees true from Sandy Point Light ((~~No.~~)) 2 ((~~48 degrees, 47.2 minutes north latitude, 122 degrees, 42.7 minutes west longitude as per U.S. Coast Guard~~)) (Light List No. 19880 FlR4s16ft4M"2," 48°47'12.4"N, 122°42'44.7"W) to ((~~the~~)) landfall on Goose-

berry Point (48°43'56.7"N, 122°40'22.0"W), easterly of a line projected from Sandy Point Light (~~(No-)~~) 2 (Light List No. 19880 FIR4s16ft4M"2," 48°47'12.4"N, 122°42'44.7"W) to Point Migley on Lummi Island (48°44'55.9"N, 122°42'54.3"W), thence along the eastern shoreline of Lummi Island to Carter Point (48°35'18.6"N, 122°38'35.0"W), thence to the most northerly tip of Vendovi Island (48°36'57.3"N, 122°36'39.1"W), thence to Clark Point on Guemes Island (48°35'18.6"N, 122°38'35.1"W) following the shoreline to Southeast Point on Guemes Island (48°31'43.4"N, 122°34'25.8"W), thence to March Point on Fidalgo Island (48°29'58.4"N, 122°33'55.8"W), northerly of the Burlington Northern railroad bridges at the north entrances to Swinomish Channel (48°27'29.1"N, 122°30'54.0"W) and westerly of a line projected from William Point Light (Light List No. 19018 FIG6s30ft5M"3," 48°34'58.5"N, 122°33'37.8"W) on Samish Island 28(^(°)) degrees true to Whiskey Rock (48°39'20.9"N, 122°30'12.5"W) on the north shore of Samish Bay and (~~(southwesterly)~~) westerly of the (~~(mouth of)~~) Whatcom Creek Waterway, defined as a line projected approximately 14 degrees true from the (~~(flashing light at the)~~) southwest end of the Port of Bellingham North Terminal (48°44'38.6"N, 122°29'46.1"W) to the southernmost point of the dike surrounding the Georgia Pacific Treatment Pond (48°44'51.5"N, 122°29'38.6"W).

(11) **Area 7C** shall include those waters of Puget Sound easterly of a line projected from William Point Light 3 (Light List No. 19018 FIG6s30ft5M"3," 48°34'58.5"N, 122°33'37.8"W) on Samish Island 28(^(°)) degrees true to Whiskey Rock (48°39'20.9"N, 122°30'12.5"W) on the north shore of Samish Bay.

(12) **Area 7D** shall include those waters of Puget Sound easterly of a line projected 154 degrees true from Sandy Point Light (~~(No-)~~) 2 (~~((48 degrees, 47.2 minutes north latitude, 122 degrees, 42.7 minutes west longitude as per U.S. Coast Guard))~~) (Light List No. 19880 FIR4s16ft4M"2," 48°47'12.4"N, 122°42'44.7"W) to (~~(the)~~) landfall on Gooseberry Point (48°43'56.7"N, 122°40'22.0"W) and south of a line projected true east from Sandy Point Light (~~(No-)~~) 2 (Light List No. 19880 FIR4s16ft4M"2," 48°47'12.4"N, 122°42'44.7"W) to (~~(the)~~) landfall on Sandy Point (48°47'12.5"N, 122°42'36.1"W).

(13) **Area 7E** shall include those waters of Puget Sound within East Sound northerly of a line projected (~~(due)~~) true west from Rosario Point (48°38'36.5"N, 122°52'26.2"W) on Orcas Island.

(14) **Area 8** shall include those waters of Puget Sound easterly of a line projected from West Point on Whidbey Island (48°24'08.4"N, 122°39'46.1"W) to Reservation Head on Fidalgo Island (48°28'41.8"N, 122°39'28.1"W), westerly of a line projected from (~~(the light on)~~) East Point Light 3 (Light List No. 18620 FIG6s21ft6M, 48°05'49.1"N, 122°29'29.4"W) 340(^(°)) degrees true to (~~(the light on)~~) Camano Island (~~((Saratoga Pass light #2, Fl Red 4 See))~~) Light 4 (Light List No. 18625 FIR4s15ft5M"4," 48°07'57.4"N, 122°30'39.1"W) southerly of the Burlington Northern railroad bridges at the north entrances to Swinomish Channel and northerly of the state highway 532 bridges between Camano Island and the mainland.

(15) **Area 8A** shall include those waters of Puget Sound easterly of a line projected from the East Point Light 3 (Light List No. 18620 FIG6s21ft6M, 48°05'49.1"N, 122°29'29.4"W) on Whidbey Island 340(^(°)) degrees true to (~~(the light on)~~) Camano Island (~~((Saratoga Pass light #2, Fl Red 4 See))~~) Light 4 (Light List No. 18625 FIR4s15ft5M"4," 48°07'57.4"N, 122°30'39.1"W), northerly of a line projected from the southern tip of Possession Point 110(^(°)) degrees true to the shipwreck on the opposite shore (47°53'35.1"N, 122°19'42.8"W), southerly of the State Highway 532 bridges between Camano Island and the mainland excluding those waters of Area 8D.

(16) **Area 8D** shall include those waters of Puget Sound inside and easterly of a line projected 225 degrees from the pilings at old Bower's Resort to a point 2,000 feet offshore, thence northwesterly to a point 2,000 feet off Mission (~~(Point)~~) Beach, thence across the mouth of Tulalip Bay to a point 2,000 feet off Hermosa Point, thence northwesterly following a line 2,000 feet offshore to the intersection with a line projected 233 degrees from the fishing boundary marker on the shore at the slide north of Tulalip Bay.

(17) **Area 9** shall include those waters of Puget Sound southerly and easterly of a line projected from the Point Partridge (~~(Point)~~) Light (Light List No. 16400 FI5s105ft13M, 48°13'28.8"N, 122°46'09.9"W) to the Point Wilson Light (Light List No. 16475 AIRW5s51ft15M, 48°08'39.0"N, 122°45'17.2"W), northerly of the (~~(site of the)~~) Hood Canal (~~(Floating)~~) Bridge, northerly of a line projected true west from the shoreward end of (~~(the Port Gamble tribal dock on)~~) Point Julia (47°51'17.3"N, 122°34'35.5"W) to the mainland in the community of Port Gamble, excluding those on-reservation waters of Hood Canal north of Port Gamble Bay to the marker at the north end of the Port Gamble Indian Reservation (47°52'04.3"N, 122°34'20.9"W), southerly of a line projected from the southern tip of Possession Point 110(^(°)) degrees true to the shipwreck (47°53'35.1"N, 122°19'42.8"W) on the opposite shore and northerly of a line projected from the Apple Cove Point Light (Light List No. 16675 FIW4s18ft6M, 47°48'53.5"N, 122°28'54.7"W) to the (~~(light at the south end of the Edmond's breakwater)~~) Edmonds South Breakwater Light (Light List No. 16705 FIY4s18ftPriv, 47°48'25.0"N, 122°23'43.0"W) at Edwards Point.

(18) **Area 9A** shall include those waters of Puget Sound known as Port Gamble Bay southerly of a line projected true west from the shoreward end of the (~~(Port Gamble tribal dock on)~~) Point Julia (47°51'17.3"N, 122°34'35.5"W) to the mainland in the community of Port Gamble and those on-reservation waters of Hood Canal north of Port Gamble Bay to the marker at the north end of the Port Gamble Indian Reservation (47°52'04.3"N, 122°34'20.9"W).

(19) **Area 10** shall include those waters of Puget Sound southerly of a line projected from the Apple Cove Point Light (Light List No. 16675 FIW4s18ft6M, 47°48'53.5"N, 122°28'54.7"W) to the light (~~(at the south end of the Edmond's breakwater at Edwards Point, westerly of a line projected 233° true from the Azteca Restaurant near Shilshole Marina through entrance piling No. 8 to the southern shore of the entrance to the Lake Washington Ship Canal)~~) (Light List No. 16675 FIW4s18ft6M, 47°48'53.5"N,

122°28'54.7"W), westerly of a line projected 43 degrees true from the Shilshole Bay Light 8 (Light List No. 18155 FIR4s15ft4M"8," 47°40'17.2"N, 122°24'31.2"W) to landfall on the northeastern shore of the Shilshole Bay Entrance Range (47°40'20.7"N, 122°24'25.4"W), westerly of a line projected 185(°) degrees true from the southwest corner of Pier 91 (47°37'35.1"N, 122°23'01.2"W) through the Duwamish Head Light (Light List No. 16910 FIW2.5s25ft10M, 47°35'55.8"N, 122°23'16.5"W) to landfall on Duwamish Head (47°35'40.0"N, 122°23'19.2"W), northerly of a true east-west line (~~(passing)~~) projected through the Point Vashon Light (Light List No. 17100 FIW4s17ft7M, 47°30'49.3"N, 122°28'23.4"W) from Southworth (47°30'49.2"N, 122°29'57.0"W), to landfall south of Brace Point (47°30'49.4"N, 122°23'44.2"W), easterly of a line projected from Orchard Point (47°33'55.4"N, 122°31'56"W) to Beans Point (47°34'28.8"N, 122°31'20.4"W) on Bainbridge Island, and northerly and easterly of a line projected true west from Agate Point (47°43'15.7"N, 122°33'12.2"W) on Bainbridge Island to the mainland (47°43'15.7"N, 122°33'41.1"W).

(20) **Area 10A** shall include those waters of Puget Sound easterly of a line projected 185(°) degrees true from the southwest corner of Pier 91 (47°37'35.1"N, 122°23'01.2"W) through the Duwamish Head Light (Light List No. 16910 FIW2.5s25ft10M, 47°35'55.8"N, 122°23'16.5"W) to landfall on Duwamish Head (47°35'40.0"N, 122°23'19.2"W).

(21) **Area 10C** shall include those waters of Lake Washington southerly of the Evergreen Point Floating Bridge.

(22) **Area 10D** shall include those waters of the Sammamish River south of the State Highway 908 Bridge and Lake Sammamish.

(23) **Area 10E** shall include those waters of Puget Sound westerly of a line projected from Orchard Point (47°33'55.4"N, 122°31'56"W) to Beans Point (47°34'28.8"N, 122°31'20.4"W) on Bainbridge Island and southerly and westerly of a line projected true west from Agate Point (47°43'15.7"N, 122°33'12.2"W) on Bainbridge Island to the mainland (47°43'15.7"N, 122°33'41.1"W).

(24) **Area 10F** shall include those waters of Puget Sound easterly (~~(of)~~) a line projected (~~(233°)~~) 43 degrees true from the (~~(Azteca Restaurant near)~~) Shilshole (~~(Marina through entrance piling Number 8 to the southern shore of the entrance to the Lake Washington Ship Canal)~~) Bay Light 8 (Light List No. 18155 FIR4s15ft4M"8," 47°40'17.2"N, 122°24'31.2"W) to landfall on the North Eastern shore of the Shilshole Bay Entrance Range (47°40'20.7"N, 122°24'25.4"W) and those waters of the Lake Washington Ship Canal westerly of a line projected true south from Webster Point (~~(true south)~~) (47°38'53.0"N, 122°16'37.1"W) to the Evergreen Point Floating Bridge including the waters of Salmon Bay, the Lake Washington Ship Canal, Lake Union and Portage Bay.

(25) **Area 10G** shall include those waters of Lake Washington northerly of the Evergreen Point Floating Bridge, easterly of a line projected from Webster Point (47°38'53.0"N, 122°16'37.1"W) true south to the Evergreen Point Floating Bridge and those waters of the Sammamish River north of the State Highway 908 Bridge.

(26) **Area 11** shall include those waters of Puget Sound southerly of a true east-west line (~~(passing)~~) projected

through the Point Vashon Light (Light List No. 17100 FIW4s17ft7M), from Southworth (47°30'49.2"N, 122°29'57.0"W) to landfall south of Brace Point (47°30'49.4"N, 122°23'44.2"W), northerly of a line projected 259 degrees true from Browns Point (47°18'20.3"N, 122°26'39.4"W) to the (~~(land fall in line with the site of Asareo smelter stack)~~) point of landfall on the opposite shore of Commencement Bay (47°17'51.8"N, 122°30'04.5"W), and northerly of the Tacoma Narrows Bridge.

(27) **Area 11A** shall include those waters of Puget Sound southerly of a line projected 259 degrees true from Browns Point (47°18'20.3"N, 122°26'39.4"W) to the (~~(land fall in line with the site of Asareo smelter stack)~~) point of landfall on the opposite shore of Commencement Bay (47°17'51.8"N, 122°30'04.5"W).

(28) **Area 12** shall include those waters of Puget Sound southerly of the site of the Hood Canal (~~(Floating)~~) Bridge and northerly and easterly of a line projected from the Tskutsko Point Light (Light List No. 17865 FI4s15ft5MRaRef, 47°41'29.3"N, 122°49'59.1"W) to Misery Point (47°39'18.3"N, 122°49'46.5"W).

(29) **Area 12A** shall include those waters of Puget Sound northerly of a line projected from Pulali Point true east to the mainland.

(30) **Area 12B** shall include those waters of Puget Sound southerly of a line projected true east from Pulali Point (~~(true east)~~) (47°44'15.3"N, 122°52'5.9"W) to (~~(the mainland)~~) landfall on Toandos Peninsula (47°44'09.9"N, 122°48'23.1"W), northerly of a line projected true east from Ayock Point (~~(true east)~~) (47°30'25.8"N, 123°31'15.7"W) to (~~(the mainland)~~) landfall on the Kitsap (Great) Peninsula (47°30'25.8"N, 123°01'53.2"W), and westerly of a line projected from the Tskutsko Point Light (Light List No. 17865 FI4s15ft5MRaRef, 47°41'29.3"N, 122°49'59.1"W) to Misery Point (47°39'18.3"N, 122°49'46.5"W).

(31) **Area 12C** shall include those waters of Puget Sound southerly of a line projected true east from Ayock Point (~~(true east)~~) (47°30'25.8"N, 123°31'15.7"W) to (~~(the mainland)~~) landfall on the Kitsap (Great) Peninsula (47°30'25.8"N, 123°01'53.2"W) and northerly and westerly of a line projected from Ayres Point (47°22'26.9"N, 123°06'44.5"W) to the (~~(public boat ramp at)~~) Union Boat Launch (47°21'27.5"N, 123°6'1.9"W).

(32) **Area 12D** shall include those waters of Puget Sound easterly of a line projected from Ayres Point (47°22'26.9"N, 123°06'44.5"W) to the (~~(public boat ramp at)~~) Union Boat Launch (47°21'27.5"N, 123°06'01.9"W).

(33) **Area 13** shall include those waters of Puget Sound southerly of the Tacoma Narrows Bridge and a line projected from Green Point (47°16'55.2"N, 122°41'41.8"W) to Penrose Point (47°15'53.6"N, 122°44'11.5"W) and northerly and easterly of a line projected from the Devil's Head Light (Light List No. 17365 FIR6s164M"4," 47°09'58.9"N, 122°45'53.3"W) to Treble Point (47°09'09.6"N, 122°44'31.3"W), thence through (~~(lighted buoy No. 3)~~) the Nisqually Flats Light 3 (Light List No. 17360 FIG4s15ft4M"3") to (~~(the mainland)~~) landfall (47°06'40.7"N, 122°45'08.8"W) and westerly of the railroad trestle at the mouth of Chambers Bay.

(34) **Area 13A** shall include those waters of Puget Sound northerly of a line projected from Green Point (47°16'55.2"N, 122°41'41.8"W) to Penrose Point (47°15'53.6"N, 122°44'11.5"W).

(35) **Area 13C** shall include those waters of Puget Sound easterly of the railroad trestle at the mouth of Chambers Bay.

(36) **Area 13D** shall include those waters of Puget Sound westerly of a line projected from the Devil's Head Light (Light List No. 17365 FIR6s164M"4," 47°09'58.9"N, 122°45'53.3"W) to Treble Point (47°09'09.6"N, 122°44'31.3"W), thence through (~~lighted buoy Number 3 to the mainland~~) the Nisqually Flats Light 3 (Light List No. 17360 FIG4s15ft4M"3," 47°07'15"N, 122°45'0.1"W) to landfall (47°06'40.7"N, 122°45'08.8"W), northerly of a line projected from Johnson Point (47°10'35.7"N, 122°49'13.2"W) to Dickenson Point (47°09'54.4"N, 122°51'06.4"W), northerly of a line projected (~~from the light at~~) 291 degrees true from Dofflemeyer Point ((~~to~~) Light (Light List No. 17400 F14s30ft7M, 47°09'58.9"N, 122°45'53.3"W) through Cooper Point ((~~to~~) easterly of a line projected from Cooper Point) (47°08'44.2"N, 122°55'33.4"W), to the southeastern shore of ((~~Sanderson Harbor~~)) Hunter Point (47°8'55.9"N, 122°56'18.1"W), easterly of a line projected 005 degrees true from the northern tip of Steamboat Island ((~~to the light at Arcadia~~)) (47°11'12.3"N, 122°56'20.6"W) to Hungerford Point (47°12'18.8"N, 122°56'11.5"W) and southerly of a line projected true east-west from 47°18'53.5"N, 122°50'32.9"W through the southern tip of Stretch Island to landfall on the easterly shore of the Key Peninsula (47°18'53.5"N, 122°47'35"W).

(37) **Area 13E** shall include those waters of Puget Sound southerly of a line projected from Johnson Point (47°10'35.7"N, 122°49'13.2"W) to Dickenson Point (47°09'54.4"N, 122°51'06.4"W).

(38) **Area 13F** shall include those waters of Puget Sound southerly of a line projected from (~~the light at~~) Dofflemeyer Point Light (Light List No. 17400 F14s30ft7M, 47°08'25.8"N, 122°54'26.2"W) to Cooper Point (47°08'44.2"N, 122°55'33.4"W).

(39) **Area 13G** shall include those waters of Puget Sound southerly of a line projected 291 degrees true from Cooper Point (47°08'44.2"N, 122°55'33.4"W) to the southeastern shore of ((~~Sanderson Harbor~~)) Hunter Point (47°8'55.9"N, 122°56'18.1"W).

(40) **Area 13H** shall include those waters of Puget Sound southwesterly of a line projected 005 degrees true from the northern tip of Steamboat Island (47°11'12.3"N, 122°56'20.6"W) to ((~~the light at Arcadia~~)) Hungerford Point (47°12'18.8"N, 122°56'11.5"W) and those waters easterly of a line projected ((64°)) 064 degrees true from Kamilche Point (47°09'08.3"N, 123°01'07.5"W) to the opposite shore (47°09'14"N, 123°00'49.3"W).

(41) **Area 13I** shall include those waters of Puget Sound southwesterly of a line projected ((64°)) 064 degrees true from Kamilche Point (47°09'08.3"N, 123°01'07.5"W) to the opposite shore (47°09'14"N, 123°00'49.3"W).

(42) **Area 13J** shall include those waters of Puget Sound ((northwesterly)), Hammersley Inlet and Oakland Bay, westerly of a line projected from the ((~~light at~~)) Arcadia Point

Boat Launch (47°11'51.4"N, 122°56'18.5"W) to Hungerford Point (47°12'18.8"N, 122°56'11.5"W).

(43) **Area 13K** shall include those waters of Puget Sound northerly of a line projected true east-west from 47°18'53.5"N, 122°50'32.9"W through the southern tip of Stretch Island to landfall on the easterly shore of the Key Peninsula (47°18'53.5"N, 122°47'35"W).

AMENDATORY SECTION (Amending WSR 17-17-100, filed 8/18/17, effective 9/18/17)

WAC 220-354-080 Puget Sound salmon—Closed areas. It is unlawful at any time, unless otherwise provided, to take, fish for, or possess salmon taken for commercial purposes with any type of gear from the following portions of Puget Sound Salmon Management and Catch Reporting Areas, except that closures listed in this section do not apply to reef net fishing areas listed in RCW 77.50.050:

Areas 4B, 5, 6, 6B, and 6C - The Strait of Juan de Fuca Preserve as defined in WAC 220-354-330((-)); "The Strait of Juan de Fuca Salmon Preserve" shall include those waters and tributaries thereto lying within three miles off shore between a line projected 30 degrees true from a point (48°19'06.9"N, 124°27'19.4"W) three miles west of the Sekiu River mouth to a line projected 45 degrees true from a point (48°07'35.4"N, 123°04'14.4"W) three miles east of the Dungeness River mouth excluding the waters of Puget Sound Salmon Management and Catch Reporting Area 6D."

Area 6D - That portion within 1/4-mile of each mouth of the Dungeness River.

Area 7 -

(1) The San Juan Island Preserve as defined in WAC 220-354-320: "San Juan Island Salmon Preserve" shall include those waters of Puget Sound lying inside the following lines: A line projected from Lopez Pass Light 2 (Light List No. 19375 FIR4s21ft4M"2," 48°28'52"N, 122°49'5"W) across Lopez Pass to Lopez Island (48°28'42.1"N, 122°49'10.7"W), a line projected from Fauntleroy Point on Decatur Island (48°31'28.4"N, 122°47'18.8"W) through Lawson Rock Light 2 (Light List No. 19410 FIR4s15ft4M"2," 48°31'51"N, 122°47'19"W) to Blakely Island (48°32'27.2"N, 122°47'21.2"W); a line projected from Deer Point on Orcas Island (48°36'5.1"N, 122°47'59.7"W) across Spindle Rock (48°35'4.2"N, 122°48'6.2"W) to Blakely Island; a line projected from Limestone Point on San Juan Island (48°37'21.0"N, 123°6'27.1"W) to the northernmost point of Jones Island (48°37'16.9"N, 123°2'59.3"W) then 90 degrees true to Orcas Island (48°37'16.8"N, 123°1'49.6"W); a line projected from Reef Point (48°31'43.1"N, 122°58'12.3"W) on San Juan Island to the southernmost point of Shaw Island (48°32'47.6"N, 122°56'55.8"W); and a line projected from Flat Point on Lopez Island (48°33'3.7"N, 122°55'10.9"W) to the most westerly point on Canoe Island (48°33'19"N, 122°55'29.6"W), thence true north to the shoreline of Shaw Island (48°33'51.3"N, 122°55'43.7"W), excluding the waters of Puget Sound Salmon Management and Catch Reporting Area 7E.

(2) Those waters within 1,500 feet of shore on Orcas Island from Deer Point (48°36'5.1"N, 122°47'59.7"W) north-easterly to Lawrence Point (48°39'38.1"N, 122°44'31"W),

thence west to a point intercepting a line projected from the northernmost point of Jones Island (48°37'17"N, 123°2'11.4"W), thence 90(°) degrees true to Orcas Island.

(3) Those waters within 1,500 feet of the shore of Cypress Island from Cypress Head (48°34'3.1"N, 122°40'5.5"W) to the northernmost point of Cypress Island (48°36'31.5"N, 122°42'42.2"W).

(4) Those waters easterly of a line projected from Iceberg Point (48°25'20.2"N, 122°53'41.1"W) to Iceberg Island (48°25'20.2"N, 122°53'41.1"W), to the easternmost point of Charles Island (48°26'25.8"N, 122°54'18.5"W), then true north from the northernmost point of Charles Island (48°26'41.1"N, 122°54'34.3"W) to the shore of Lopez Island (48°26'47.1"N, 122°54'34.2"W).

(5) Those waters northerly of a line projected from the southernmost point of land at Aleck Bay (48°25'25.6"N, 122°51'8.2"W) to the westernmost point of Colville Island (48°24'56"N, 122°49'31.9"W), thence from the easternmost point of Colville Island (48°24'53.5"N, 122°49'10.7"W) to Point Colville (48°25'17.1"N, 122°48'50.7"W).

(6) Those waters easterly of a line projected from Biz Point on Fidalgo Island (48°26'33.1"N, 122°40'42.3"W) to the Williamson Rocks ((~~Light~~) Lighted Buoy 4 (Light List No. 19335 FIR4s4M"4"RED, 48°26'51"N, 122°42'27.8"W), thence to the Dennis Shoal ((~~Light~~) Buoy 6 (Light List No. 19345 Red Nun, 48°27'27"W, 122°42'57"N), thence to ((~~the light~~) Burrows Island Light (Light List No. 19350 F1W6s57ft7MHorn(B1(2)30s, 48°27'27.6"N, 122°42'59.3"W) on the westernmost point of Burrows Island, thence to the southwestern-most point of Fidalgo Head (48°29'31.2"N, 122°42'10.6"W), and including those waters within 1,500 feet of the western shore of Allan Island, those waters within 1,500 feet of the western shore of Burrows Island, and those waters within 1,500 feet of the shore of Fidalgo Island from the southwestern-most point of Fidalgo Head (48°29'31.2"N, 122°42'10.6"W) northerly to Shannon Point (48°30'32.8"N, 122°41'2.5"W).

(7) Additional Fraser sockeye and pink seasonal closure: Those waters within 1,500 feet of the shore of Fidalgo Island from the Initiative 77 marker (48°25'14.2"N, 122°40'04.5"W) northerly to Biz Point (48°26'33.1"N, 122°40'42.3"W).

(8) Those waters within 1,500 feet of the eastern shore of Lopez Island from Point Colville (48°25'17.1"N, 122°48'50.7"W) northerly to Lopez Pass (48°28'42.1"N, 122°49'10.7"W), and those waters within 1,500 feet of the eastern shore of Decatur Island from the southernmost point of land (48°28'52"N, 122°49'5"W) northerly to Fauntleroy Point (48°31'28.4"N, 122°47'18.8"W), and including those waters within 1,500 feet of the shore of James Island.

Area 7A - The Drayton Harbor Preserve as defined in WAC 220-354-310.

Area 7B -

(1) That portion south and east of a line from William Point on Samish Island (48°34'55.2"N, 122°33'38.2"W) to Saddlebag Island (48°32'7.2"W, 122°33'32.6"N) to ((~~the southeastern tip of~~) Casperson Point on Guemes Island to landfall on March Point (48°29'58.4"N, 122°33'55.9"W), and that portion northerly of the railroad trestle in Chuckanut Bay.

(2) That portion of Bellingham Bay and Portage Bay adjacent to Lummi Indian Reservation is closed north and west of a line from the intersection of Marine Drive and Hoff Road (48°46'59"N, 122°34'25"W) projected 180(°) degrees true for ((~~2.75~~) 1.80 nautical miles (nm) to a point at 48°45'11"N, 122°34'25"W, then 250(°) degrees true for ((~~4.4~~) 0.92 nm to a point at 48°44'50"N, 122°35'42"W, then 270(°) degrees true for ((~~4.4~~) 0.95 nm to 48°44'50"N, 122°37'08"W, then ((~~230~~) 228 degrees true for ((~~4.3~~) 0.65 nm to 48°44'24"N, 122°37'52"W, then 200(°) degrees true for ((~~+~~) 0.69 nm to 48°43'45"N, 122°38'12"W, then 90(°) degrees true for ((~~+~~) 0.64 nm to a point just northeast of Portage Island (48°43'45"N, 122°37'14"W), then ((~~60~~) 155 degrees true for ((~~4.4~~) 0.97 nm to a point just east of Portage Island (48°42'52"N, 122°36'37"W), then 247 degrees true for 80 yards to landfall on Portage Island (48°42'51.1"N, 122°36'40.3"W).

Area 7C - That portion southeasterly of a line projected from the mouth of Oyster Creek (48°36'51.6"N, 122°26'27.8"W) 237(°) degrees true to ((~~⊗~~) the fishing boundary marker on Samish Island (48°34'33.1"N, 122°31'49.3"W).

Area 8 -

(1) That portion of Skagit Bay easterly of a line projected from Brown Point on Camano Island (48°16'12.6"N, 122°27'52.8"W) to a white monument on the easterly point of Ika Island (48°21'40.1"N, 122°29'52.8"W), thence across the Skagit River to the terminus of the jetty with McGlinn Island (48°22'18.3"N, 122°30'18.3"W).

(2) Those waters within 1,500 feet of the western shore of Camano Island south of a line projected true west from Rocky Point (48°15'1.3"N, 122°31'47.2"W).

Area 8A -

(1) Those waters easterly of a line projected from Mission ((~~Point to Buoy C+~~) Beach (48°3'19.3"N, 122°17'23.1"W) to Gedney Island Light 1 (Light List No. 18480 FIG25s15ft4M"1, 48°0'15.5"N, 122°17'49.7"W), excluding the waters of Area 8D, thence through the ((~~green light at the entrance jetty of the~~) Snohomish River Light 5 (Light List No. 18535 F1G4s16ft5M, 47°59'16.3"N, 122°13'47.4"W) and across the mouth of the Snohomish River to landfall on the eastern shore (47°59'13.3"N, 122°13'35"W), and those waters northerly of a line from Camano Head (48°3'23.2"N, 122°21'24.6"W) to the northern boundary of Area 8D, except when open for pink fisheries.

(2) Additional coho seasonal closure prior to October 3: Those waters southerly of a line projected from the Washington state ferry Clinton ((~~ferry dock~~) terminal (47°58'28.8"N, 122°21'5.2"W) to the Washington state ferry Mukilteo ((~~ferry dock~~) terminal (47°56'57"N, 122°18'15.7"W).

Area 8D - Those waters easterly of a line projected from ((~~Mission Point~~) the northerly most point of Mission Beach (48°3'19.3"N, 122°17'23.1"W) to Hermosa Point (48°3'42.7"N, 122°17'36.4"W).

Area 9 - Those waters lying inside and westerly of a line projected from the Point No Point Light ((~~to Sierra Echo buoy~~) (Light List No. 16550 F1(3)W10s27ft14M, 47°54'43.9"N, 122°31'36.3"W) to the traffic separation lane Lighted Buoy SE (Light List No. 16540 FIY2.5s5MY"SE, (47°55'26.8"N, 122°29'30.7"W), thence to ((~~Forbes Landing~~

wharf east of Hansville)) landfall at (47°55'4.2"N, 122°32'46"W) on Norwegian Point.

Area 10 -

(1) Those waters easterly of a line projected from Meadow Point (47°41'35.9"N, 122°24'21.6"W) to West Point (47°39'43.6"N, 122°26'8.5"W).

(2) Those waters of Port Madison westerly of a line projected from Point Jefferson (47°44'51.7"N, 122°28'25.6"W) to the northernmost portion of Point Monroe (47°42'32"N, 122°30'43.5"W).

(3) Additional pink seasonal closure: The area east inside of the line originating from West Point (47°39'43.6"N, 122°26'8.5"W) and extending west to the ((~~closest midchannel~~)) traffic separation lane Lighted Buoy SG (Light List No. 16815 FLY2.5s5MY"SG," (47°39'41.6"N, 122°27'52.6"W), thence 20 degrees true ((~~through Point Wells~~)) until reaching latitude ((47°44'50.0"N)) 47°44'30.0"N, thence extending directly east to the shoreline (47°44'30"N, 122°22'40.5"W).

(4) Additional purse seine pink seasonal closure: The area within 500 feet of the eastern shore in Area 10 is closed to purse seines north of latitude ((47°44'50.0"N)) 47°44'30.0"N.

(5) Additional coho and chum seasonal closure: Those waters of Elliott Bay east of a line from Alki Point (Light List No. 16915 FL5s39ft16M, 47°34'34.5"N, 122°25'14"W) to the ((~~light at~~)) Fourmile Rock Light 1 (Light List No. 16810 FLG6s15ft6M"1," 47°38'20.4"N, 122°24'48.7"W), and those waters northerly of a line projected from Point Wells to ((~~"SF" Buoy~~)) traffic separation lane Lighted Buoy SF (Light List No. 16745 FLY2.5s5MY"SF," 47°45'53"N, 122°26'15.7"W), then west to President's Point (47°45'57.2"N, 122°28'20.1"W).

Area 10E - Those waters of Liberty Bay north of a line projected ((~~due~~)) true east from ((~~the southernmost Keyport dock~~)) 47°41'56.4"N, 122°36'53.5"W to 47°41'56.4"N, 122°36'17.4"W, those waters of Dyes Inlet north of the Manette Bridge, and those waters of Sinclair Inlet southwest of a line projected true east from the ((~~Bremerton ferry terminal~~)) Washington state ferry Bremerton terminal (47°33'43.9"N, 122°37'31.1"W) to landfall at Port Orchard (47°33'43.9"N, 122°35'31.1"W).

Area 11 -

(1) Those waters northerly of a line projected true west from the ((~~light at the mouth of~~)) Gig Harbor Light (Light List No. 17221 FIR4s13ft3MPriv., 47°19'35.7"N, 122°34'29.2"W), and those waters south of a line from Browns Point (47°18'20.3"N, 122°26'39.4"W) to the northernmost point of land on Point Defiance (47°19'7.7"N, 122°32'23.9"W).

(2) Additional coho seasonal closure: Those waters south of a line projected from the ((~~light at the mouth of~~)) Gig Harbor Light (Light List No. 17221 FIR4s13ft3MPriv., 47°19'35.7"N, 122°34'29.2"W) to the ((~~Tahlequah ferry dock~~)) Washington state ferry Tahlequah terminal (47°19'58.3"N, 122°30'25.5"W), then south to the ((~~Point Defiance ferry dock~~)) Washington state ferry Point Defiance terminal, and those waters south of a line projected from the ((~~Point Defiance ferry dock~~)) Washington state ferry Point

Defiance terminal (47°18'20.7"N, 122°30'51"W) to Dash Point (47°19'10.2"N, 122°25'46.6"W).

Areas 12, 12B, and 12C - Those waters within 1,000 feet of the eastern shore.

Area 12 - Those waters inside and easterly of a line projected from Lone Rock ((~~to the navigation light~~)) (47°39'46"N, 122°46'11"W) to Hood Canal Light 13 (Light List No. 17855 FLG2.5s20ft4M"13," 47°39'45.5"N, 122°47'14.4"W) off Big Beef Creek, thence southerly to the ((~~tip of the~~)) outermost northern headland of Little Beef Creek (47°39'24.4"N, 122°47'23.4"W).

Area 12 - Additional purse seine chum seasonal closures:

(1) Those waters of Area 12 south and west of a line projected 94 degrees true from south Hazel Point (47°41'29.1"N, 122°46'22.6"W) to the ((~~light~~)) Hood Canal Light 11 on the opposite shore (Light List No. 17845 FLG4s15ft5M"11," 47°41'24.6"N, 122°44'50.4"W), bounded on the west by the Area 12/12B boundary line are closed to purse seines except this area is open for purse seines on October 24 and October 30.

(2) Those waters of Area 12 within 2 miles of the Hood Canal Bridge are closed to purse seines on October 24 and October 30.

Area 12A -

(1) Those waters north of a line projected due east from Broad Spit (47°48'37.8"N, 122°48'59.3"W) to landfall on the Toandos Peninsula (47°48'37.8"N, 122°47'42.5"W).

(2) Those waters within 1,000 feet of the mouth of the Quilcene River.

Area 12B -

(1) Those waters within 1/4-mile of the mouths of the Dosewallips, Duckabush, and Hamma Hamma rivers and Anderson Creek.

(2) Additional Chinook seasonal closure: Those waters north and east of a line projected from Tekiu Point (47°35'6.6"N, 122°57'52.8"W) to Triton Head (47°36'10.9"N, 122°59'0.5"W).

Area 12C -

(1) Those waters within 2,000 feet of the western shore between the dock at Glen Ayr R.V. Park (47°25'14.1"W, 23°7'50.7"N) and the Port of Hoodspport marina dock (47°24'12.6"N, 123°8'29.5"W).

(2) Those waters south of a line projected 107 degrees true from the Cushman Powerhouse (47°22'11.2"N, 123°09'35.9"W) to the ((~~public boat ramp at~~)) Union boat launch (47°21'27.5"N, 123°6'1.9"W).

(3) Those waters within 1/4-mile of the mouth of the Dewatto River.

Area 13A - Those waters of Burley Lagoon north of State Route 302; those waters within 1,000 feet of the outer oyster stakes off Minter Creek Bay from 47°21'47.5"N, 122°41'10.1"W to 47°21'9.8"N, 122°41'57.7"W, including all waters of Minter Creek Bay; those waters westerly of a line drawn due north from Thompson Spit (47°19'58.6"N, 122°43'42.7"W) at the mouth of Glen Cove; and those waters within 1/4-mile of Green Point.