

WSR 20-08-033
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Developmental Disabilities Administration)
 [Filed March 24, 2020, 8:28 a.m., effective May 1, 2020]

Effective Date of Rule: May 1, 2020.

Purpose: These amendments do the following: Change eligibility criteria to offer overnight planned respite services to clients with paid and unpaid caregivers; add certification and evaluation procedures to clarify the quality assurance process; clarify who can become an overnight planned respite services provider; and increase readability for people who use chapter 388-829R WAC by reorganizing content, clarifying language, and eliminating duplications and outdated information.

Citation of Rules Affected by this Order: New WAC 388-829R-011, 388-829R-012, 388-829R-013, 388-829R-220, 388-829R-225, 388-829R-230, 388-829R-235, 388-829R-240, 388-829R-245, 388-829R-250, 388-829R-255 and 388-829R-260; repealing WAC 388-829R-015, 388-829R-016, 388-829R-017, 388-829R-110, 388-829R-120, 388-829R-125, 388-829R-130, 388-829R-135, 388-829R-185, 388-829R-190, 388-829R-195 and 388-829R-200; and amending WAC 388-829R-005, 388-829R-010, 388-829R-018, 388-829R-020, 388-829R-025, 388-829R-030, 388-829R-035, 388-829R-060, 388-829R-065, 388-829R-070, 388-829R-075, 388-829R-080, 388-829R-085, 388-829R-090, 388-829R-115, 388-829R-140, 388-829R-165, 388-829R-170, 388-829R-175, 388-829R-180, 388-829R-205, 388-829R-210, and 388-829R-215.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.040.

Adopted under notice filed as WSR 20-03-034 on January 7, 2020.

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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 12, Amended 23, Repealed 12.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 12, Amended 23, Repealed 12.

Date Adopted: March 23, 2020.

Cheryl Strange
Secretary

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-005 What definitions apply to this chapter? The following definitions apply to this chapter:

~~("Adult protective services" or "APS" means the investigative body designated by the aging and long term care support administration (AL TSA) to investigate suspected cases of abandonment, abuse, financial exploitation, and neglect as defined in chapter 74.34 RCW.)~~

"Administrator" means the person responsible for daily management and operation of the overnight planned respite services site. The administrator may also be the owner.

"Authorization" means DDA approval of funding for a service as identified in the ~~((individual support))~~ person-centered service plan or evidence of payment for a service.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020(5) and who the ~~((administration))~~ DDA has determined eligible to receive services under chapter 71A.16 RCW. When used in this section, "you" is interchangeable with client.

"DDA" ~~((or "the administration"))~~ means the developmental disabilities administration, an administration of the department of social and health services and its employees and authorized agents.

"Direct support professional" means a person who interacts directly with a client during an overnight planned respite stay to provide services outlined in the client's overnight planned respite services individualized agreement.

"DSHS" or "the department" means the state of Washington department of social and health services and its employees and authorized agents.

"Family" means ~~((relatives who live in the same home with the eligible client. Relatives include))~~ one or more of the following relatives: Spouse or registered domestic partner((s)); natural((s)); adoptive((s)); or stepparent((s)); grandparent((s)); child((s)); stepchild((s)); sibling((s)); stepsibling((s)); uncle((s)); aunt((s)); first cousin((s)); niece((s)); or nephew.

"Mandatory reporter" means any person working with vulnerable adults required to report suspected incidents of abandonment, abuse, neglect, financial exploitation under chapter 74.34 RCW.

~~("NA R" means nursing assistant registered under chapter 18.88A RCW.~~

"NA C" means nursing assistant certified under chapter 18.88A RCW.)

"Nurse delegation" means the process by which a registered nurse transfers the performance of select nursing tasks to a nursing assistant-registered or nursing assistant-certified in select situations as set forth in chapter 18.79 RCW and WAC 246-840-910 through 246-840-970.

"Overnight planned respite services" means services that are intended to provide short-term intermittent relief for ~~((persons))~~ a person who ((live)) lives with ((the)) and acts as a DDA ((client as the)) client's primary ((care provider and are either a family member who is paid or unpaid or a nonfamily member who is not paid. These services also provide the opportunity for the client to receive support, care, and engagement in the community)) caregiver.

"Overnight planned respite services provider(~~(s)~~)" ("~~service provider~~") and "provider" means ~~((a provider))~~ an agency that is contracted to provide overnight planned respite services.

~~("Registered nurse delegation" means the process by which a registered nurse transfers the performance of selected nursing tasks to a NA R or NA C in selected situations as set forth in chapter 18.79 RCW and WAC 246-840-910 through 246-840-970.)~~

"Owner" means the person who accepts or delegates responsibility for the management and operation of the overnight planned respite services site. The owner may also be the administrator.

"Primary caregiver" means the person who provides the client's care and supervision and lives with the client.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-010 What is the purpose of this chapter? This chapter establishes rules for ~~((clients and providers regarding))~~ overnight planned respite services administered by DDA.

NEW SECTION

WAC 388-829R-011 Who is eligible to receive overnight planned respite services? To be eligible to receive overnight planned respite services, a client must:

- (1) Be eligible for DDA services under chapter 388-823 WAC;
- (2) Be eighteen or older;
- (3) Be living at home with a primary caregiver and not currently receiving residential habilitation services under the care waiver; and
- (4) Identify a backup caregiver to respond in an emergency if the primary caregiver is unavailable.

NEW SECTION

WAC 388-829R-012 How are overnight planned respite services requested? The case resource manager assists the client or the client's primary caregiver to complete a respite application and submit it to the respite services committee.

NEW SECTION

WAC 388-829R-013 What does the respite services committee consider when reviewing a respite request? The adult respite services committee will consider the following factors when reviewing a respite request:

- (1) Whether the client is eligible to receive overnight planned respite services under WAC 388-829R-011;
- (2) Whether the client's needs can be safely met in the respite setting;
- (3) Whether a respite site is available to accommodate the client's accessibility needs; and
- (4) Whether there are vacancies within six months of the requested service dates.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-018 What ~~((are the time limitations of))~~ limits apply to overnight planned respite services? (1) A client must not receive overnight planned respite services ~~((may not exceed))~~ more than fourteen days in a calendar year.

(2) A provider must not provide overnight planned respite services to more than one unrelated client per respite home at a time.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-020 What are the responsibilities of an overnight planned respite services provider? An overnight planned respite services provider must:

- (1) Meet the requirements of this chapter ~~((and its contract))~~;
- (2) Deliver the service on the dates approved by ~~((the administration))~~ DDA;
- (3) Complete the overnight planned respite services individualized agreement with the client or the client's primary caregiver before the respite stay;
- (4) Provide supports and services outlined in the ~~((individual))~~ overnight planned respite services individualized agreement;
- ~~((4))~~ (5) Provide adequate staff to administer the program and meet the needs of clients;
- ~~((5))~~ (6) Ensure that clients have ~~((immediate))~~ access to ~~((staff))~~ employees or the means to contact ~~((staff))~~ employees at all times; and
- ~~((6))~~ (7) Retain all records and other material related to the services contract for six years after expiration of the contract.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-025 What requirements must ~~((an agency))~~ a provider meet to contract with DDA to provide overnight planned respite services? To be eligible to contract with DDA to provide overnight planned respite services, ~~((an agency))~~ a provider must:

- (1) ~~((Must be certified by the DDA to perform the duties of overnight planned respite service;~~
- ~~(2) Must))~~ Be approved as a contractor by the department; and
- ~~((3) Providing respite to more than one client per respite home is prohibited))~~ (2) Receive initial certification no more than ninety days after the first date of service delivery.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-030 ~~((Are the rules in chapters 388-113 and 388-825 regarding))~~ Who must have a background ~~((checks applicable to providers of overnight planned respite services))~~ check? ~~((Yes. The rules in chapters 388-113 and 388-825 regarding))~~ (1) An overnight

planned respite services provider employee, administrator, owner, direct support professional, volunteer, and any other employee who may have unsupervised access to a DDA client must have a background ((checks are applicable to providers of overnight planned respite services)) check.

(2) Any person required to have a background check under this section must have a nondisqualifying background check result every two years, or more frequently if required by DSHS.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-035 What will disqualify a direct support professional providing overnight planned respite services ((providers)) or a volunteer from working in a capacity that may involve access to individuals with a developmental disability? (1) Criminal convictions and pending charges that disqualify a direct support professional providing overnight planned respite services ((providers and their employees and volunteers)) or a volunteer from working with individuals with a developmental disability are listed in chapter 388-113 WAC. ((Individuals))

(2) A volunteer or person employed by an overnight planned respite services ((providers)) provider who ((receive)) receives a DSHS background check with a disqualifying ((results are)) result is prohibited from any unsu-
perervised access to DDA clients.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-060 What are the minimum requirements for direct support professionals providing overnight planned respite services ((providers))? To provide overnight planned respite services ((providers must at a minimum)), a direct support professional must:

(1) Have a high school diploma or GED equivalent, unless hired before September 1, 1991;

(2) Be ((at least)) eighteen ((years of age when employed as a direct care staff, or at least twenty-one years of age when employed as an administrator)) or older;

(3) Have a clear understanding of job responsibilities ((and knowledge of individual support)), person-centered service plans, and ((client needs)) overnight planned respite services individualized agreements; and

(4) Have a current background check as required by WAC 388-829R-030(;~~and~~

~~(5) Be able to:~~

~~(a) Read, understand, and provide services outlined in the individual support plan (ISP) and individual respite services agreement;~~

~~(b) Reasonably accommodate the client's individual preferences;~~

~~(c) Know the community resources, such as medical facilities, emergency resources, and recreational opportunities;~~

~~(d) Enable the client to keep in touch with family and friends in a way preferred by the client;~~

~~(e) Protect the client's financial interests;~~

~~(f) Fulfill reporting requirements as required in this chapter and the overnight planned respite services contract;~~

~~(g) Know how and when to contact the client's representative and case manager; and~~

~~(h) Successfully complete the training required in this chapter)).~~

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-065 What training requirements must overnight planned respite services ((staff)) employees meet? (1) Overnight planned respite services provider ((staff)) employees must meet all training and certification requirements that apply to community residential service businesses in accordance with chapter 388-829 WAC.

(2) A direct support professional must be trained on a client's overnight planned respite services individualized agreement before working alone with the client as verified by a signature on the overnight planned respite services individualized agreement.

(3) The provider must document that ((its staff has)) employees have met these requirements and make this documentation available for DDA.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-070 What policies and procedures must overnight planned respite services providers have?

(1) Overnight planned respite services providers must develop and implement policies and procedures that address:

(a) Client rights, including a client's right to file a complaint or suggestion without interference;

(b) Reporting requirements for suspected abuse, neglect, financial exploitation, ((~~or~~)) and abandonment;

(c) Client protections when there have been allegations of abuse, neglect, financial exploitation, or abandonment;

(d) Emergent situations that may pose a danger or risk to the client or others;

(e) Response to a missing person and other client emergencies;

(f) Emergency response plans for natural ((~~or~~)) and other disasters;

(g) Client access to medical, mental health, and law enforcement resources for clients;

(h) Notification to client's primary caregiver, legal representative, or relatives in case of emergency;

(i) Client grievances;

(j) Appropriate response and supports for clients who engage in aggressive or assaultive behavior as informed by the client's overnight planned respite services individualized agreement; and

(k) All aspects of medication management including ((but not limited to)):

(i) Supervision of medication;

(ii) Client refusal;

(iii) ((Services related to medications and treatments provided under the delegation of a registered)) Nurse ((consistent with)) delegation under chapter 246-840 WAC;

(iv) The monitoring of a client who self-administers medication;

(v) Medication assistance ~~((for clients who need support))~~ under chapter 246-888 WAC; and

(vi) What the service provider will do in the event it becomes aware that a client is no longer safe to take his or her own medications.

(2) The service provider must train ~~((staff))~~ employees on its policies and procedures, maintain current written policies and procedures, and make them ~~((accessible))~~ available upon request to all ~~((staff and available to))~~ employees, clients ~~((and))~~, primary caregivers, client legal representatives ~~((upon request))~~, and DDA.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-075 What are the requirements for an ~~((individual))~~ overnight planned respite services individualized agreement? (1) ~~An~~ overnight planned respite services ~~((providers))~~ provider must develop an ~~((individual))~~ overnight planned respite services individualized agreement with the client's ~~((paid or unpaid))~~ primary caregiver, and legal representative if the client has one, at least three business days ~~((prior to))~~ before the client's ~~((placement))~~ start date for respite services.

(2) The ~~((individual))~~ overnight planned respite services individualized agreement must:

(a) Outline supports and services ~~((to))~~ that may be provided during the respite stay; and

(b) Be signed by the client, or the legal representative if the client has one, and the client's primary caregiver before the client's start date for respite services. An email approval is acceptable if the provider is unable to obtain a signature.

(3) The provider must send a copy of the approved overnight planned respite services individualized agreement to DDA before the start date for respite services.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-080 What services and activities must be a part of overnight planned respite services? The overnight planned respite services provider must provide the following services and activities at no cost to the client:

(1) ~~((Support staff available twenty-four hours per day for each day of the respite stay as determined in the individual respite services agreement to meet the client's needs as identified in the client's assessment;~~

~~((2))~~ A furnished home environment including a private, furnished bedroom for the respite client;

~~((3))~~ An accessible site for clients with physical disabilities;

~~((4))~~ (2) Three nutritious meals and two snacks per day;

~~((5))~~ (3) Bedding and towels;

~~((6))~~ (4) Access to laundry facilities;

~~((7))~~ (5) Access to a telephone for local calls; and

~~((8))~~ (6) The following as identified in a client's overnight planned respite services individualized agreement:

(a) Up to twenty-four hour support from a direct support professional for each day of the respite stay;

~~((b))~~ Medication ~~((monitoring))~~ assistance under chapter 246-888 WAC and medication administration under WAC 246-840-910 through 246-840-970 as needed, including assistance with medical treatment prescribed by a health professional that does not require registered nurse delegation or professionally licensed services;

~~((9))~~ (c) Instruction and support services ~~((identified in the client's individual respite services agreement));~~

~~((10))~~ (d) Transportation ~~((as identified in the individual respite services agreement));~~

~~((11))~~ (e) Supports for performing personal hygiene routines and activities of daily living ~~((as identified in the individual respite service agreement and individual support plan));~~ and

~~((12))~~ (f) Activities within the home and community ~~((as outlined in the individual respite services agreement)).~~

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-085 Are overnight planned respite providers responsible to transport a client? (1) The client and client's ~~((family))~~ primary caregiver are responsible for transportation to and from the respite services.

(2) The overnight planned respite services provider ~~((is responsible to))~~ must ensure that the client's transportation needs are met during the respite stay as identified in the client's ~~((individual))~~ overnight planned respite services individualized agreement.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-090 What requirements must be met before an overnight planned respite provider transports a client? Before transporting a client, an overnight planned respite services providers or direct support professional must have:

(1) ~~((Carry))~~ Automobile insurance ~~((per))~~ coverage under chapter 46.30 RCW; and

(2) ~~((Have))~~ A valid driver's license ~~((per))~~ under chapter 46.20 RCW.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-115 How may ~~((an))~~ a direct support professional providing overnight planned respite services ~~((provider))~~ assist a client with medication? (1) ~~((An))~~ A direct support professional providing overnight planned respite services ~~((provider))~~ may ~~((only))~~ provide medication assistance ~~((per))~~ under chapter 246-888 WAC ~~((if the client meets the following criteria:~~

(a) Is able to put the medication into his or her mouth, apply, or instill the medication; and

(b) Is aware that he or she is receiving medication).

(2) An overnight planned respite services provider may provide ~~((specific medication assistance))~~ delegated nursing tasks ~~((as described under chapter 246-888 WAC as follows))~~ if the direct support professional is:

((Medication Assistance Task	May an overnight planned respite services provider complete this task if the client meets both criteria in subsection (1)(a) and (b) of this section?
Remind or coach the client to take his or her medication.	Yes
Open the medication container.	Yes
Hand client the medication container.	Yes
Place medication in the client's hand.	Yes
Transfer medication from a container to another device for the purpose of an individual dose (e.g., pouring liquid medication from a container to a calibrated spoon, medication cup or adaptive device.	Yes
Alter a medication by crushing or mixing, or similar alterations.	Yes, if the client is aware that the medication has been altered or added to food or beverage. A pharmacist or other qualified practitioner must determine it is safe to alter a medication and this must be documented on the prescription container or in the client's record.
Handing the client a pre-filled insulin syringe.	Yes, but the client must be able to inject the insulin by him or herself.
Guide or assist client to apply or instill skin, nose, eye and ear preparations.	Yes, but hand-over-hand administration is not allowed.
Assistance with injectable or IV medication.	No, this is not allowed.
Hand-over-hand assistance with medication.	No, may only be done under nurse delegation.
Assistance with medication beyond the examples provided in this chart.	No, may only be done by a licensed professional within the scope of their license or under registered nurse delegation.)

- (a) A registered nurse;
- (b) A licensed practical nurse; or
- (c) Delegated by a registered nurse to perform nursing care tasks.

(3) To provide delegated nursing tasks, the direct support professional must:

- (a) Provide the delegated nursing tasks under WAC 246-840-910 through 246-840-970;
- (b) Receive client-specific training from the delegating registered nurse under WAC 246-840-930;
- (c) Complete training requirements under WAC 246-840-930; and
- (d) Be credentialed by the department of health under WAC 246-840-930.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-140 Where must overnight planned respite services be provided? Overnight planned respite services providers must provide overnight planned respite services in a ((single person)) residence maintained and furnished by the provider.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-165 What must overnight planned respite services providers do to plan for and respond to emergencies? (1) The overnight planned respite services provider must develop an emergency response plan to address natural and other disasters.

- (2) In an emergency, the overnight planned respite services provider must:
 - (a) Immediately call 911 if it is a life-threatening emergency;
 - (b) Provide emergency services;
 - (c) Notify DDA ((and));
 - (d) Notify the client's legal representative or backup caregiver; and
 - ((4)) (e) Submit a written report to DDA ((as required by the DDA residential reporting requirements specified in the overnight planned respite services contract)).

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-170 What records must overnight planned respite services providers keep? (1) For each client, the overnight planned respite services providers must keep the following information:

- ((1)) (a) The client's name and address;
- ((2)) (b) The name, address, and telephone number of the client's ((relative)) primary guardian or legal representative;
- ((3)) (c) A copy of the client's most recent ((ISP)) person-centered service plan;
- ((4)) (d) A copy of the ((individual)) client's overnight planned respite services individualized agreement;
- ((5)) (e) Nurse delegation records, if applicable;
- (f) Progress notes;
- (g) Incident reports, if applicable;
- (h) Medication documentation, including a medication intake form and medication administration records, if applicable;

(i) A list of the client's personal property upon arrival and departure; and

(j) A record of money or gift cards managed by the respite provider on behalf of the client during the respite stay, if applicable.

(2) An overnight planned respite services provider must also keep the following:

~~((6))~~ (a) Water temperature monitoring records;

~~((7) Staff)~~ (b) Direct support professional training records;

~~((8) Staff)~~ (c) Direct support professional time sheets specific to locations worked;

~~((9))~~ (d) Payment records;

~~((10) Dates and times of service;~~

(11) Progress notes and incident reports;

(12) Medication intake records;

(13) A list of the client's personal property upon arrival and departure; and

(14) A record of money or gift cards managed by the respite provider on behalf of the client during the respite stay) (e) A signed copy of DSHS form 10-403 for each direct support professional and administrator.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-175 Are direct support professionals providing overnight planned respite services ((providers)) mandatory reporters? ((1) Yes.) A direct support professional providing overnight planned respite services ((providers are)) is a mandatory ((reporters. They are required to report all instances of suspected abandonment, abuse, financial exploitation, or neglect of vulnerable adults as defined in)) reporter under chapter 74.34 RCW.

~~((2) Overnight respite services providers must comply with DDA's residential reporting requirements specified in their contract.~~

~~(3) Providers must retain a signed copy of the DDA policy on residential reporting requirements specified in their contract and submit a signed copy of the policy to DDA.)~~

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-180 How must overnight planned respite services providers report abuse and neglect? In compliance with the DDA residential reporting requirements, an overnight planned respite services ((providers)) provider must immediately report suspected abandonment, abuse, financial exploitation, or neglect of vulnerable adults to:

(1) Adult protective services using the DSHS ((toll free telephone number, 1-866-END-HARM or 1-866-363-4276)) online reporting tool or by calling 1-877-734-6277 (TTY: 1-800-977-5456);

(2) The DDA ((in compliance with the DDA residential reporting requirements as specified in the)) overnight planned respite services ((contract)) program manager or designee; and

(3) Law enforcement agencies as required under chapter 74.34 RCW, including when there is reason to suspect sexual or physical abuse.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-205 What happens if the overnight planned respite services provider is found to be out of compliance? (1) If DDA finds in its evaluation that the overnight planned respite services provider is out of compliance with any part of this chapter ((or the DDA contract)), the provider and DDA must develop a corrective action plan.

(2) The corrective action plan must:

(a) Outline methods for the provider to comply with the required corrections; and

(b) Provide a time frame for the provider to complete the corrective actions.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-210 When may DDA stop ((the)) payment authorization for ((payment or terminate a contract for the services of an)) overnight planned respite services ((provider))? DDA may stop ((the)) payment authorization for ((payment or terminate a contract for the services of an)) overnight planned respite services ((provider when)) if:

(1) The provider demonstrates inadequate performance or inability to deliver quality care that jeopardizes the client's health, safety, or well-being;

(2) The provider does not complete the corrective actions within the agreed upon time frame;

(3) The provider fails to comply with the requirements of this chapter ((or the overnight planned respite services provider contract)); or

(4) DDA has a reasonable, good faith belief that the client's health, safety, or well-being is at risk.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-215 May the overnight planned respite services provider request an administrative hearing to contest DDA's decision to stop payment ((or terminate its contract))? No. The overnight planned respite services provider may not contest the decision to stop payment ((or termination of the contract)) by administrative hearing. ((A client may challenge DDA's decision to deny a provider of choice.))

NEW SECTION

WAC 388-829R-220 What is initial certification? (1) Initial certification is a document issued by DDA that indicates a provider meets the requirements under this chapter to deliver overnight planned respite services.

(2) A provider must obtain initial certification no more than ninety days after the first date of service delivery.

(3) The provider must allow a DDA-contracted evaluator to complete an on-site certification evaluation.

(4) Based on the findings of the certification evaluation, DDA may issue:

(a) Initial certification; or

(b) Provisional certification.

(5) An initial certification is valid for no more than twelve months.

NEW SECTION

WAC 388-829R-225 What is standard certification?

(1) Standard certification is a document issued by DDA that indicates a provider meets the requirements under this chapter to deliver overnight planned respite services.

(2) A provider must obtain standard certification before their initial certification expires.

(3) The provider must allow a DDA-contracted evaluator to complete an on-site certification evaluation.

(4) Based on the findings of the evaluation, DDA may:

- (a) Issue standard certification;
- (b) Issue provisional certification; or
- (c) Decertify the provider.

(5) A standard certification is valid for no more than twenty-four months.

NEW SECTION

WAC 388-829R-230 What is provisional certification? (1) DDA may impose a provisional certification for a maximum of ninety days if the provider:

- (a) Prevents or interferes with a certification evaluation or complaint investigation by DSHS;
- (b) Fails to comply with chapter 388-829R WAC;
- (c) Fails to comply with chapter 74.34 RCW;
- (d) Knowingly makes a false statement of material fact to DSHS; or
- (e) Fails to implement a plan of correction.

(2) At the end of the provisional certification, if the provider has complied with certification requirements, DDA may approve the provider for standard certification.

(3) At the end of the provisional certification, if the provider has not complied with certification requirements, DDA must decertify the overnight planned respite services provider.

NEW SECTION

WAC 388-829R-235 What must an overnight planned respite services provider comply with to maintain certification? To maintain certification an overnight planned respite services provider must comply with:

- (1) Requirements under this chapter;
- (2) Laws governing this chapter, including chapter 71A.12 RCW;
- (3) Requirements under chapter 74.34 RCW;
- (4) Other relevant federal, state and local laws, requirements, and ordinances.

NEW SECTION

WAC 388-829R-240 When may DDA decertify an overnight planned respite services provider? DDA may decertify an overnight planned respite services provider who:

(1) Has had a license, certification, medicaid or medicare provider agreement, or a contract for the care of children or

vulnerable adults denied, suspended, revoked, not renewed, or terminated, for noncompliance with state or federal regulations;

(2) Obtained or attempted to obtain a license, certification or contract by fraudulent means or misrepresentation; or

(3) Willfully prevented or interfered with or failed to cooperate with any investigation or certification evaluation made by the department or DDA-contracted evaluator, including refusal to permit authorized department representatives to interview clients or have access to their records.

NEW SECTION

WAC 388-829R-245 How does DDA monitor overnight planned respite services? (1) To monitor overnight planned respite services, DDA reviews all feedback received from overnight planned respite services post-services surveys and follows up as needed with any concerns.

(2) DDA monitors an overnight planned respite services provider through certification evaluation to ensure that the client's needs are being met and the provider is in compliance with this chapter.

NEW SECTION

WAC 388-829R-250 How must the overnight planned respite services provider participate in the certification evaluation process? The overnight planned respite services provider must participate in the certification evaluation process with DDA employees and DDA-contracted evaluators by:

- (1) Allowing scheduled and unscheduled visits;
- (2) Providing information and documentation as requested;
- (3) Cooperating in setting up appointments;
- (4) Responding to questions or issues identified;
- (5) Participating in an exit conference; and
- (6) Submitting a corrective action plan within an agreed time frame, if applicable.

NEW SECTION

WAC 388-829R-255 What if the overnight planned respite services provider disagrees with a certification evaluation or certification decision? If an overnight planned respite services provider disagrees with a certification evaluation or certification decision under this chapter, the provider may request an informal dispute resolution meeting with DDA by:

(1) Submitting a written request to DDA no more than ten days after receiving the final certification letter and report; and

(2) Including a written statement that identifies the challenged action, describes the provider's concerns, and lists regulations and contract standards cited.

NEW SECTION

WAC 388-829R-260 What if the overnight planned respite services provider disagrees with a certification action or the outcome of an informal dispute resolution?

(1) If an overnight planned respite services provider disagrees with a certification action or the outcome of an informal dispute resolution, the provider may request an administrative hearing under chapter 388-02 WAC.

(2) To request an administrative hearing the provider must submit a written request to the office of administrative hearings no more than twenty-eight days after receiving the written notice of the outcome of the informal dispute resolution.

(3) The administrative hearing request must include:

(a) A copy of the contested certification action; and

(b) The reason the provider is contesting the certification action.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-829R-015 What conditions must be met to be eligible to receive overnight planned respite services?
- WAC 388-829R-016 How do I access overnight planned respite services?
- WAC 388-829R-017 Who are the qualified providers of overnight planned respite services?
- WAC 388-829R-110 What health care assistance must an overnight planned respite provide a client?
- WAC 388-829R-120 What is required for an overnight planned respite services provider to administer medication and provide delegated nursing tasks?
- WAC 388-829R-125 What is required for an overnight planned respite services provider to perform nursing tasks under the registered nurse delegation program?
- WAC 388-829R-130 When is an overnight planned respite services provider not allowed to perform nursing tasks?
- WAC 388-829R-135 What records must the overnight planned respite services provider keep regarding registered nurse delegation?
- WAC 388-829R-185 Who oversees, monitors, and evaluates overnight planned respite services?
- WAC 388-829R-190 How often must DDA evaluate overnight planned respite services providers?
- WAC 388-829R-195 How must the overnight planned respite services provider participate in the evaluation process?
- WAC 388-829R-200 What occurs during the review and evaluation process?

WSR 20-09-024

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed April 6, 2020, 12:58 p.m., effective May 7, 2020]

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

Purpose: WAC 246-854-076 and 246-854-086, the board of osteopathic medicine and surgery (board) adopted two new sections of rule to chapter 246-854 WAC. The new section WAC 246-854-076 implements a process for issuing expedited temporary practice permits for osteopathic physician assistants (OPAs). The new section adopts the secretary rule, WAC 246-12-051, by reference for qualified applicants who hold out-of-state credentials as OPAs to obtain a temporary permit. By adopting the secretary rules, the board ensures consistent standards with other health care professions. New WAC 246-854-086 establishes reentry to practice requirements for OPAs. Establishing return to practice requirements makes sure that OPAs who have been out of practice for more than three years are properly qualified to resume caring for patients.

Citation of Rules Affected by this Order: New WAC 246-854-076 and 246-854-086.

Statutory Authority for Adoption: RCW 18.57A.020 and 18.340.020.

Adopted under notice filed as WSR 20-02-052 on December 23, 2019.

A final cost-benefit analysis is available by contacting Tracie Drake, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4766, fax 360-236-2901, TTY 711, email tracie.drake@doh.wa.gov, website www.doh.wa.gov.

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

Number of Sections Adopted at 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 2, Amended 0, Repealed 0.

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

Date Adopted: February 7, 2020.

John Finch, DO
Board Chair

NEW SECTION

WAC 246-854-076 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 osteopathic physician assistants.

The board adopts the procedural rules as adopted by the department of health in WAC 246-12-051.

NEW SECTION

WAC 246-854-086 Reentry to practice requirements.

(1) An osteopathic physician assistant who has not actively practiced medicine for a period of at least three years in any jurisdiction in the United States must fulfill one of the following:

- (a) Successfully pass a board approved competency evaluation;
- (b) Successfully pass a board approved exam;
- (c) Successfully complete a board approved retraining program arranged by the osteopathic physician assistant; or
- (d) Successfully complete a board approved reentry to practice or monitoring program.

(2) For the purposes of this section, a person is considered to have actively practiced medicine if they can demonstrate that they hold an active, unrestricted license as a physician assistant in the United States.

WSR 20-09-025

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed April 6, 2020, 1:08 p.m., effective May 7, 2020]

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

Purpose: Chapter 246-853 WAC, Osteopathic physicians and surgeons, the board of osteopathic medicine and surgery (board) adopted new rules to include implementing a process for issuing expedited temporary practice permits for military spouses. RCW 18.340.020 requires health profession disciplining authorities to establish procedures to expedite temporary practice permits for military spouses, or a registered domestic partner of a military service member. The board also adopted amendments to the chapter to include clarification of continuing education opportunities; updating and clarifying HIV/AIDS education standards; clarifying the use of public forms of advertising; updating reentry to practice requirements; minor updates regarding use of laser, light radiofrequency, and plasma devices; and repealing eight sections that were outdated or redundant.

Citation of Rules Affected by this Order: New WAC 246-853-136; repealing WAC 246-853-130, 246-853-150, 246-853-160, 246-853-170, 246-853-180, 246-853-190, 246-853-200 and 246-853-400; and amending WAC 246-853-070, 246-853-080, 246-853-100, 246-853-140, 246-853-230, 246-853-245, and 246-853-630.

Statutory Authority for Adoption: RCW 18.57.005, 18.130.050, and 18.340.020.

Adopted under notice filed as WSR 20-02-049 on December 23, 2019.

A final cost-benefit analysis is available by contacting Tracie Drake, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4766, fax 360-236-2901, TTY 711, email tracie.drake@doh.wa.gov, website www.doh.wa.gov.

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

Number of Sections Adopted at 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 7, Repealed 8.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 7, Repealed 8.

Date Adopted: February 7, 2020.

John Finch, DO
Board Chair

AMENDATORY SECTION (Amending WSR 90-24-055, filed 12/3/90, effective 1/31/91)

WAC 246-853-070 Categories of creditable continuing professional education activities. For those licensed osteopathic physicians unable to satisfy the one hundred fifty hour continuing professional education requirement by meeting the certification options in WAC 246-853-080(2), the following are categories of creditable continuing medical education activities approved by the board. The credits must be earned in the thirty-six month period preceding application for renewal of licensure. One clock hour shall equal one credit hour ((for the purpose of satisfying the one hundred fifty hour continuing professional education requirement)).

(1) Category 1 - A minimum of sixty credit hours of the total one hundred fifty hour requirements are mandatory under this general category.

(a) Category 1-A - Formal educational programs sponsored by nationally recognized osteopathic or medical institutions, organizations and their affiliates.

Examples of recognized sponsors include, but are not limited to:

(i) Formal medical associations including, but not limited to, the American Osteopathic Association (AOA) or the American Medical Association (AMA);

(ii) Accredited osteopathic or medical schools and hospitals((-);

(iii) Osteopathic or medical societies and specialty practice organizations((-);

(iv) Continuing medical education institutes((-);

(v) Governmental health agencies and institutions((-);

(vi) Residencies, fellowships and preceptorships; or

(vii) Interactive online courses and materials that assign a specific number of credits or contact hours and are provided by nationally recognized osteopathic and medical institutions, organizations, and their affiliates.

(b) Category 1-B - Preparation in publishable form of an original scientific paper (defined as one which reflects a search of the literature, appends a bibliography, and contains original data gathered by the author) and initial presentation

before a postdoctoral audience qualified to critique the author's statements. Maximum allowable credit for the initial presentation will be ten credit hours per scientific paper. A copy of the paper in publishable form shall be submitted to the board. Publication of the above paper or another paper in a professional journal approved by the board may receive credits as approved by the board up to a maximum of fifteen credit hours per scientific paper.

(c) Category 1-C - Serving as a teacher, lecturer, preceptor or moderator-participant in any formal educational program. Such teaching would include classes in colleges of osteopathic medicine and medical colleges and lecturing to hospital interns, residents and staff. Total credits allowed under Category 1-C are forty-five per three-year period, with one hour's credit for each hour of actual instruction.

~~((A))~~ (2)(a) Category 2-A - Home study - The board strongly believes that participation in formal professional education programs is essential in fulfilling a physician's total education needs. The board is also concerned that the content and educational quality of many unsolicited home study materials are not subject to impartial professional review and evaluation. It is the individual physician's responsibility to select home study materials that will be of actual benefit. For these reasons, the board has limited the number of credits which may be granted for home study, and has adopted strict guidelines in granting these credits.

(i) Reading - Credits may be granted for reading the Journal of the AOA or AMA, and other selected journals published by recognized osteopathic organizations. One-half credit per issue is granted for reading alone. An additional one-half credit per issue is granted if the quiz found in the AOA Journal is completed and returned to the division of continuing medical education. Credit for all other reading is limited to recognized scientific journals listed in *Index Medicus*. One-half credit per issue is granted for reading these recognized journals.

(ii) Listening - Credits may be granted for listening to programs distributed by the AOA audio-educational service. Other ~~((audio tape))~~ audio programs sponsored by nationally recognized organizations and companies are also eligible for credit. One-half credit per ~~((tape))~~ audio program may be granted. An additional one-half credit may be granted for each AOA audio-educational service program if the quiz card for the tape found in the AOA Journal is completed and returned.

(iii) Other home study courses - Subject-oriented and refresher home study courses and programs sponsored by recognized professional organizations are eligible for credit. The number of credit hours indicated by the sponsor will be accepted by the board.

(b) A maximum of ninety credit hours per three-year period may be granted for all home study activities under Category 2-A.

~~((B))~~ (c) Category 2-B - Preparation and personal presentation of a scientific exhibit at a county, regional, state or national professional meeting. Total credits allowed under Category 2-B are thirty per three-year period, with ten credits granted for each new and different scientific exhibit. Appropriate documentation must be submitted with the request for credit.

~~((C))~~ (d) Category 2-C - All other programs and modalities of continuing professional education. Included under this category are informal educational activities such as observation at medical centers; programs dealing with experimental and investigative areas of medical practice, and programs conducted by nonrecognized sponsors.

(e) Total credits allowed under Category 2-C are thirty hours per three-year period.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-853-080 Continuing education. (1) Licensed osteopathic physicians and surgeons must complete one hundred fifty hours of creditable continuing medical education (CME) every three years ~~((as required))~~ in accordance with chapter 246-12 WAC, Part 7.

(2) ~~((Certification of compliance with the requirement for continuing medical education of the American Osteopathic Association, or receipt of the AMA physicians recognition award or a current certification of continuing medical education from medical practice academies shall be deemed sufficient to satisfy the requirements of these regulations.~~

~~((3) Original certification or recertification within the previous six years by a specialty board will be considered as evidence of equivalent compliance with these continuing professional education requirements.))~~ To satisfy the CME requirements in subsection (1) of this section, a licensed osteopathic physician and surgeon may:

(a) Certify or recertify with the American Board of Osteopathic Medical Specialties (ABOMS) or the American Board of Medical Specialties (ABMS) within the last six years;

(b) Hold a current American Osteopathic Association (AOA) certificate of excellence in CME; or

(c) Hold a current American Medical Association (AMA) physician's recognition award (PRA).

AMENDATORY SECTION (Amending WSR 91-20-120, filed 9/30/91, effective 10/31/91)

WAC 246-853-100 Prohibited publicity and advertising. An osteopathic physician shall not use or allow to be used any form of public communications or advertising connected with his or her profession or in his or her professional capacity as an osteopathic physician which:

- (1) Is false, fraudulent, deceptive or misleading;
- (2) Uses testimonials that are false, fraudulent, deceptive, unethical, misleading, or are compensated for in any form;
- (3) Guarantees any treatment or result;
- (4) Makes claims of professional superiority;
- (5) States or includes prices for professional services except as provided for in WAC 246-853-110;
- (6) Fails to identify the physician as an osteopathic physician as described in RCW 18.57.140;
- (7) Otherwise exceeds the limits of WAC 246-853-110.

NEW SECTION

WAC 246-853-136 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 osteopathic physicians and surgeons. The board adopts the procedural rules as adopted by the department of health in WAC 246-12-051.

AMENDATORY SECTION (Amending WSR 90-24-055, filed 12/3/90, effective 1/31/91)

WAC 246-853-140 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 physician or physician's assistant 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 give 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.)~~ Osteopathic physician and surgeon licensees must comply with the uniform mandatory reporting rules found in WAC 246-16-200 through 246-16-270.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-853-230 HIV/AIDS education and training. Applicants must complete a one-time, seven clock hour course in HIV/AIDS education (as required) in accordance with chapter 246-12 WAC, Part 8.

AMENDATORY SECTION (Amending WSR 15-16-085, filed 7/31/15, effective 8/31/15)

WAC 246-853-245 Reentry to practice requirements. ~~(1) An osteopathic physician and surgeon who has not ((been in active practice))~~ actively practiced medicine for a period of at least ~~((five))~~ three years in any jurisdiction in the United States must fulfill one of the following:

~~((1))~~ (a) Successfully pass a board approved competency evaluation;

~~((2))~~ (b) Successfully pass a board approved exam;

~~((3))~~ (c) Successfully complete a board approved retraining program arranged by the osteopathic physician; or

~~((4))~~ (d) Successfully complete a board approved reentry to practice or monitoring program.

(2) For the purposes of this section, a person is considered to have actively practiced medicine if they can demonstrate that they hold an active, unrestricted license as an osteopathic physician and surgeon in the United States.

AMENDATORY SECTION (Amending WSR 15-16-085, filed 7/31/15, effective 8/31/15)

WAC 246-853-630 Use of laser, light, radiofrequency, and plasma devices as applied to the skin. (1) For the purposes of this section, laser, light, radiofrequency, and plasma (LLRP) devices are medical devices that:

(a) Use a laser, noncoherent light, intense pulsed light, radiofrequency, or plasma to topically penetrate skin and alter human tissue, or use high frequency ultrasound or other technologies to deliver energy to or through the skin; and

(b) Are classified by the federal Food and Drug Administration as prescriptive devices.

(2) Because an LLRP device is used to treat disease, injuries, deformities, and other physical conditions in human beings, the use of an LLRP device is the practice of osteopathic medicine under RCW 18.57.001. The use of an LLRP device can result in complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation and hyperpigmentation.

(3) Use of medical devices using any form of energy to penetrate or alter human tissue for a purpose other than those in subsection (1) of this section constitutes surgery and is outside the scope of this section.

OSTEOPATHIC PHYSICIAN RESPONSIBILITIES

(4) An osteopathic physician must be appropriately trained in the physics, safety, and techniques of using LLRP devices prior to using such a device, and must remain competent for as long as the device is used.

(5) An osteopathic physician must use an LLRP device in accordance with standard medical practice.

(6) Prior to authorizing treatment with an LLRP device, an osteopathic physician must take a history, perform an appropriate physical examination, make an appropriate diagnosis, recommend appropriate treatment, obtain the patient's informed consent (including informing the patient that a non-physician may operate the device), provide instructions for emergency and follow-up care, and prepare an appropriate medical record.

(7) Regardless of who performs LLRP device treatment, the osteopathic physician is ultimately responsible for the safety of the patient.

(8) Regardless of who performs LLRP device treatment, the osteopathic physician is responsible for assuring that each treatment is documented in the patient's medical record.

(9) The osteopathic physician must ensure that there is a quality assurance program for the facility at which LLRP device procedures are performed regarding the selection and treatment of patients. An appropriate quality assurance program shall include the following:

(a) A mechanism to identify complications and problematic effects of treatment and to determine their cause;

(b) A mechanism to review the adherence of supervised professionals to written protocols;

- (c) A mechanism to monitor the quality of treatments;
- (d) A mechanism by which the findings of the quality assurance program are reviewed and incorporated into future protocols required by subsection (10)(d) of this section and osteopathic physician supervising practices; and
- (e) Ongoing training to maintain and improve the quality of treatment and performance of the treating professionals.

OSTEOPATHIC PHYSICIAN DELEGATION OF LLRP TREATMENT

(10) An osteopathic physician who meets the requirements in subsections (1) through (9) of this section may delegate an LLRP device procedure to a properly trained and licensed professional, whose licensure and scope of practice allows the use of a prescriptive LLRP medical device, provided all the following conditions are met:

- (a) The treatment in no way involves surgery as that term is understood in the practice of osteopathic medicine;
- (b) Such delegated use falls within the supervised professional's lawful scope of practice;
- (c) The LLRP device is not used on the globe of the eye;
- (d) An osteopathic physician has a written office protocol for the supervised professional to follow in using the LLRP device. A written office protocol must include at a minimum the following:
 - (i) The identity of the individual osteopathic physician authorized to use the LLRP device and responsible for the delegation of the procedure;
 - (ii) A statement of the activities, decision criteria, and plan the supervised professional must follow when performing procedures delegated pursuant to this rule;
 - (iii) Selection criteria to screen patients for the appropriateness of treatments;
 - (iv) Identification of devices and settings to be used for patients who meet selection criteria;
 - (v) Methods by which the specified device is to be operated and maintained;
 - (vi) A description of appropriate care and follow-up for common complications, serious injury, or emergencies; and
 - (vii) A statement of the activities, decision criteria, and plan the supervised professional shall follow when performing delegated procedures, including the method for documenting decisions made and a plan for communication or feedback to the authorizing osteopathic physician concerning specific decisions made((;)).
- (e) The supervised professional has appropriate training including, but not limited to:
 - (i) Application techniques of each LLRP device;
 - (ii) Cutaneous medicine;
 - (iii) Indications and contraindications for such procedures;
 - (iv) Preprocedural and postprocedural care;
 - (v) Potential complications; and
 - (vi) Infectious disease control involved with each treatment((;)).
- (f) The delegating osteopathic physician ensures that the supervised professional uses the LLRP device only in accordance with the written office protocol, and does not exercise independent medical judgment when using the device;

(g) The delegating osteopathic physician shall be on the immediate premises during the patient's initial treatment and be able to treat complications, provide consultation, or resolve problems, if indicated. The supervised professional may complete the initial treatment if the physician is called away to attend to an emergency;

(h) Existing patients with an established treatment plan may continue to receive care during temporary absences of the delegating osteopathic physician provided there is a local back-up physician, licensed under chapter 18.57 or 18.71 RCW, who satisfies the requirements of subsection (4) of this section. The local back-up physician must agree in writing to treat complications, provide consultation or resolve problems if medically indicated. In case of an emergency the delegating osteopathic physician or a back-up physician shall be reachable by phone and able to see the patient within sixty minutes.

(11) The use of, or the delegation of the use of, an LLRP device by an osteopathic physician assistant is covered by WAC 246-854-220.

~~((12) This section only applies to the use of LLRP devices by osteopathic physicians and osteopathic physician assistants.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-853-130 General provisions for mandatory reporting rules.
- WAC 246-853-150 Health care institutions.
- WAC 246-853-160 Medical associations or societies.
- WAC 246-853-170 Health care service contractors and disability insurance carriers.
- WAC 246-853-180 Courts.
- WAC 246-853-190 State and federal agencies.
- WAC 246-853-200 Professional review organizations.
- WAC 246-853-400 Brief adjudicative proceedings—Denials based on failure to meet education, experience, or examination prerequisites for licensure.

WSR 20-09-027

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed April 6, 2020, 1:38 p.m., effective May 7, 2020]

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

Purpose: Ignition interlock technology has advanced significantly in recent years to accommodate a secure and reliable method of unlocking ignition interlock devices during a lockout condition. This rule would allow ignition interlock manufacturers to utilize this technology while, at the same time, creating a secure and accountable method of testing and oversight of any use by the Washington State Patrol.

Citation of Rules Affected by this Order: New WAC 204-50-092; and amending WAC 204-50-090.

Statutory Authority for Adoption: RCW 46.43.395, 46.37.005, and 46.04.215.

Adopted under notice filed as WSR 19-24-071 on December 2, 2019.

Changes Other than Editing from Proposed to Adopted Version: WAC 204-50-092 (1)(d) changed the words "randomized or" to "standardized and"; WAC 204-50-092 (2)(c) struck the words "laws of the"; and WAC 204-50-092(7) changed the phrase "a secure and randomized code, randomized procedure, or manufacturer controlled remote connection procedure," to "a secure and randomized code, standardized procedure, or manufacturer controlled standardized remoted connection."

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 1, Repealed 0.

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

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

Date Adopted: April 6, 2020.

John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 12-17-153, filed 8/22/12, effective 10/1/12)

WAC 204-50-090 Ignition interlock device security.

(1) A manufacturer and its vendors, service center(s), and ignition interlock technicians must take all steps necessary to prevent tampering or physical circumvention of an ignition interlock device. These steps must include:

(a) Special locks, seals, and installation procedures that prevent or record evidence of tampering and/or circumvention attempts;

(b) Installation and/or use of all anticircumvention features required under this chapter;

(c) Breath anticircumvention features such as alternating breath flow, hum tone, breath temperature and any other impaired driving section approved anticircumvention features must be activated during all start up and random breath tests;

(d) Changes in software and ignition interlock device configuration, including anticircumvention features and the Washington state configuration profile will only be administered by the manufacturer.

(2) In addition, a service center or ignition interlock technician will affix to the ignition interlock device a label containing the following notation: "Warning - This ignition inter-

lock device has been installed under the laws of the state of Washington. Attempts to disconnect, tamper with, or circumvent this ignition interlock device may subject you to criminal prosecution. For more information, call (insert manufacturer, vendor or service center's toll free number)."

(3) No owner or employee of a manufacturer, vendor or service center may authorize ~~((or assist with the disconnection of an ignition interlock device, or enable))~~ or employ the use of any ~~((("emergency bypass" mechanism or any other "bypass")))~~ procedure ~~((that))~~ which allows a ~~((person restricted to use the))~~ vehicle equipped with a functioning ignition interlock device~~(;)~~ to start or operate ~~((a vehicle))~~ without providing all required breath samples. ~~((Doing so may subject the person to criminal prosecution under RCW 46.20.750 and may cause the revocation of a manufacturer's, vendor's, service center, and/or ignition interlock technician's certification under chapter 204-50 WAC.))~~

(4) ~~Except as provided in WAC 204-50-092,~~ the sale or use of any type of ~~((remote code))~~ **lockout override** allowing ~~((a restricted driver))~~ **any user** to bypass a lockout condition ~~((or any user to not provide a breath sample on vehicle start up))~~ is prohibited.

(5) All known ignition interlock device circumventions or tampering must be reported to the impaired driving section in an impaired driving section approved electronic format within seven **calendar** days of determining that an ignition interlock device was circumvented or tampered with.

NEW SECTION

WAC 204-50-092 Lockout override. (1) Except as provided in subsection (2) of this section, the manufacturer may, in its discretion, authorize and provide a lockout override when a lockout occurs.

(a) The lockout override shall deactivate the lockout condition for a period of up to four hours. If the device has not been serviced by a service center prior to the expiration of the authorized lockout override period, a lockout override shall not be authorized again until the device has been physically inspected and the calibration checked at a service center.

(b) After a lockout override has been authorized by the manufacturer, the lockout override must be activated within a maximum of twenty hours. After twenty-four hours, the lockout override shall no longer be capable of overriding a lockout.

(c) The activation of a lockout override shall not render the interlock device or any attached components inactive. The interlock device must operate in the same manner as required in chapter 204-50 WAC, including all start up and random breath tests.

(d) All lockout override procedures must be standardized and secured to prevent unauthorized duplication during future lockout conditions or on other ignition interlock devices.

(2) A lockout override shall not be authorized in any of the following circumstances:

(a) To allow an ignition interlock technician to override a lockout; or

(b) To override any temporary lockout or mandatory waiting period; or

(c) When the vehicle equipped with an ignition interlock device is located in a state other than Washington or outside the United States, unless a lockout override is authorized by the jurisdiction in which the vehicle is located.

(3) All lockout override procedures must be tested by the impaired driving section prior to approval and use in Washington.

(a) Annual testing and evaluation of any lockout override method approved for use will be completed by the impaired driving section in accordance with WAC 204-50-040.

(b) Any proposed modification to an approved lockout override procedure must be completed in accordance with WAC 204-50-050.

(4) A manufacturer must notify the impaired driving section if any other lockout override procedures are in use in other jurisdictions and provide safeguards to ensure unapproved lockout override procedures will not be used in Washington.

(5) The authorization and activation of any lockout override must be reported by the manufacturer to the impaired driving section in an approved format within seven calendar days of authorization by the manufacturer.

(6) The activation of any lockout override must be displayed within the data log of the device, which is viewable by the impaired driving section. The data log must display all standard data log information while the lockout override is active.

(7) As used in this section, "lockout override" means a secure and randomized code, standardized procedure, or manufacturer controlled standardized remote connection procedure used to temporarily override or deactivate a lockout condition on a certified ignition interlock device.

WSR 20-09-030

PERMANENT RULES

BATES TECHNICAL COLLEGE

[Filed April 6, 2020, 5:41 p.m., effective May 7, 2020]

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

Purpose: Chapter 495A-104 WAC, Board of trustees, is being amended to align with current policies and practices for Bates Technical College.

Citation of Rules Affected by this Order: Amending chapter 495A-104 WAC.

Statutory Authority for Adoption: RCW 42.30.075 and chapter 34.05 RCW.

Adopted under notice filed as WSR 20-03-029 on January 7, 2020.

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 1, Repealed 2.

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

Date Adopted: April 6, 2020.

Dr. Jean Hernandez
Special Assistant to the President

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-104-010 ((Time and place of board meetings.)) Organization. ~~((The board of trustees shall hold one regular meeting on the third Wednesday of each month except for the month of August at 2:00 p.m. and such special meetings as may be requested by the chairman of the board or by a majority of the members of the board and announced in accordance with law.~~

~~All regular and special meetings of the board of trustees shall be held at Bates Technical College, Downtown Campus, 1101 South Yakima Avenue, Tacoma, WA 98405, unless scheduled elsewhere, and are open to the general public, except for lawful executive sessions.~~

~~No official business may be conducted by the board of trustees except during a regular or special meeting.)~~ Bates Technical College, District 28, is established in Title 28B RCW as a public institution of higher education. The college is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the college. The president establishes the structure of the administration.

NEW SECTION

WAC 495A-104-015 Time and place of board meetings. The board of trustees shall hold one regular meeting on the third Monday of each month except for the month of August. Meetings will begin with a study session at 2:00 p.m., followed by the business meeting at 3:00 p.m. Special meetings, as may be requested by the chair of the board or by a majority of the members of the board, shall be announced in accordance with applicable open public meetings requirements.

All regular and special meetings of the board of trustees shall be held at Bates Technical College, Downtown Campus, 1101 South Yakima Avenue, Tacoma, WA 98405, unless scheduled elsewhere and so noted in accordance with the requirements of the Open Public Meetings Act, chapter 42.30 RCW. Board meetings are open to the general public, except for lawful executive sessions.

No official business may be conducted by the board of trustees except during a regular or special meeting.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 495A-104-020 Request for items to be placed on board agenda.
 WAC 495A-104-030 Delegation to college president.

WSR 20-09-031**PERMANENT RULES****DEPARTMENT OF LICENSING**

[Filed April 6, 2020, 7:10 p.m., effective May 7, 2020]

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

Purpose: The funeral and cemetery board is promulgating rule making to incorporate ESSB 5001 which was passed during the 2019 legislative session. These rules will cover the two new dispositions: Alkaline hydrolysis and natural organic reduction. In addition to ESSB 5001 changes, the board is repealing Title 98 WAC in its entirety and is rewriting and merging all relevant funeral and cemetery rules into Title 308 WAC for ease of use.

Citation of Rules Affected by this Order: New Title 308 WAC; repealing Title 98 WAC; and amending Title 308 WAC.

Statutory Authority for Adoption: RCW 68.05.105, 18.39.175.

Adopted under notice filed as WSR 20-03-156 on January 21, 2020.

Changes Other than Editing from Proposed to Adopted Version: WAC 30-48-130 was included in WSR 20-03-156, filed January 21, 2020, and was found to have been repealed in 1986. It has been replaced with the new number WAC 308-48-132.

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 40, Amended 27, Repealed 53.

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

Date Adopted: April 6, 2020.

Damon Monroe
 Rules Coordinator

Chapter 308-47 WAC

**((RULES OF PROCEDURE FOR)) CREMATION,
 ALKALINE HYDROLYSIS, AND NATURAL
 ORGANIC REDUCTION**

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-47-010 Definitions. (1) "Alkaline hydrolysis" or "hydrolysis" means the reduction of human remains to bone fragments and essential elements in a licensed hydrolysis facility using heat, pressure, water and base chemical agents.

(2) "Authorizing agent" means the person(s) legally entitled to control the disposition of the human remains.

~~((2) "Crematory authority or endorsement" the legal entity and their authorized representatives, licensed to perform cremations.~~

(3) "Cremation chamber" means the enclosed space in a crematory in which the cremation process takes place.

(4) "Pulverization" is the reduction of identifiable bone fragments to unidentifiable dimensions by manual or mechanical means following cremation.

(5) "Processing" is the removal of foreign objects from cremated human remains and may include pulverization.

(6) "Cremation container" means the container in which the human remains must be enclosed before being placed in the cremation chamber for cremation. A cremation container must:

- ~~• Be composed of a combustible material. If the remains are delivered to a crematory in a noncombustible container, the authorizing agent must be informed of the disposition of the container, if the container is not actually used in the cremation process. Any transfer of human remains to combustible containers at the crematory must be in accordance with chapter 18.39 RCW, Title 308 WAC, and applicable public health laws.~~

- ~~• Be rigid enough for placement into the cremation chamber.~~

- ~~• Assure protection to the health and safety of the crematory operators and others.~~

- ~~• Provide a proper covering for the human remains.~~

- ~~• Be resistant to leakage or spillage of body fluids.~~

(7) "Sealable container" means any container in which cremated human remains can be placed and closed to prevent leakage or spillage of cremated human remains.

(8) "Holding facility" means an area designated for the care, storage and holding of human remains prior to disposition. A holding facility must:

- ~~• Comply with any applicable public health laws.~~

- ~~• Preserve the dignity of the human remains.~~

- ~~• Recognize the personal integrity, health and safety of employees and others.~~

- ~~• Be secure from access by anyone other than authorized personnel.~~

(9) "Cadaver" means human remains or any part thereof, which have been donated to science for medical research purposes.

(10) "Body parts" means limbs and other portions of human anatomy that have been removed from a person or

human remains for medical purposes during treatment, surgery, biopsy, autopsy or medical research.

(11) "**Commingling**" means the mixing of cremated human remains of more than one deceased person.

(12) "**Residue**" means the cremation products that may unavoidably remain in the cremation chamber after manual sweeping techniques are performed.)

(3) "**Body parts**" means limbs and other portions of human anatomy that have been removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research.

(4) "**Cadaver**" means human remains or any part thereof, which have been donated to science for medical research purposes.

(5) "**Commingling**" means the mixing of human remains following cremation, alkaline hydrolysis, or natural organic reduction of more than one deceased person.

(6) "**Cremation**" means the reduction of human remains to bone fragments in a crematory by means of incineration.

(7) "**Cremation container**" means a rigid, combustible container which encloses human remains for cremation.

(8) "**Crematory**" means a building or area of a building that houses one or more cremation chambers, to be used for the cremation of human remains.

(9) "**Crematory authority, alkaline hydrolysis authority, or natural organic reduction authority**" means the legal entity and their authorized representatives, licensed to reduce human remains through cremation, alkaline hydrolysis, or natural organic reduction.

(10) "**Effluent**" means the liquid end-product following alkaline hydrolysis.

(11) "**Funeral establishment**" means a place of business licensed in accordance with RCW 18.39.145, that provides for any aspect of the care, shelter, transportation, embalming, preparation, and arrangements for the disposition of human remains and includes all areas of such entity and all equipment, instruments, and supplies used in the care, shelter, transportation, preparation, and embalming of human remains.

(12) "**Holding facility**" means an area designated for the care, storage, and holding of human remains prior to disposition.

(13) "**Human remains**" means the body of a deceased person, including remains following the process of cremation, alkaline hydrolysis, or natural organic reduction.

(14) "**Hydrolysis facility**" means a structure, room, or other space in a building or structure containing one or more hydrolysis vessels, to be used for alkaline hydrolysis.

(15) "**Natural organic reduction**" means the contained, accelerated conversion of human remains to soil.

(16) "**Natural organic reduction facility**" means a structure, room, or other space in a building or real property where natural organic reduction of a human body occurs.

(17) "**Processing**" is the removal of foreign objects from human remains following cremation, alkaline hydrolysis, or natural organic reduction and may include pulverization.

(18) "**Pulverization**" is the reduction of identifiable bone fragments to unidentifiable dimensions by manual or

mechanical means during or following cremation, alkaline hydrolysis, or natural organic reduction.

(19) "**Reduced human remains**" means human remains after the reduction process.

(20) "**Reduction**" means an accelerated conversion of human remains into bone fragments, essential elements, or soil by cremation, alkaline hydrolysis, or natural organic reduction.

(21) "**Reduction chamber**" means the enclosed space in a crematory, alkaline hydrolysis vessel, or natural organic reduction facility in which the reduction process takes place.

(22) "**Reduction facility**" means a crematory, or hydrolysis facility, or natural organic reduction facility that is solely devoted to the reduction of human remains.

(23) "**Reduction facility operator**" means the person(s) registered with the board who operates a crematory, alkaline hydrolysis equipment, or natural organic reduction facility.

(24) "**Residue**" means the products that may unavoidably remain in the reduction chamber after manual cleaning techniques are performed.

(25) "**Shroud**" means a leak resistant covering for human remains prior to alkaline hydrolysis, or natural organic reduction to ensure privacy and respectful handling of human remains.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-47-020 Receipt and identification of human remains. ((A crematory must not take custody of unidentified human remains. Before accepting human remains, the crematory must verify that identification is attached to the cremation container. Upon accepting human remains for cremation, the crematory must make a permanent record of the following:

- Name of deceased.
- Date of death.
- Place of death.
- Name and relationship of authorizing agent.
- Name of firm engaging crematory services.
- Description of the cremation container to be consumed with the human remains.

• An identification number assigned each human remains and inscribed on a metal disc or metal tag. The metal identification disc or tag must identify the crematory and accompany the human remains through each phase of the cremation, processing and packaging. The disc or tag identification number must be recorded on all paperwork regarding a human remains.)) (1)(a) A reduction facility must not take custody of unidentified human remains. Before accepting human remains, the reduction facility must verify that identification is attached to the container, shroud, or human remains.

(b) A reduction facility operator may unwrap human remains prior to reduction for the sole purpose of verifying identification. If any action beyond identification is required, that action must be performed by a properly licensed individual.

(2) The reduction facility must assign an identification number for each human remains to be inscribed on a metal disc or metal tag.

(3) The metal identification disc or tag must include the name of the facility and accompany the human remains through each phase of the reduction, processing, and packaging.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-47-030 Holding human remains for cremation. (1) A crematory must not accept ~~((and))~~ or hold human remains ~~((for cremation))~~ unless the human remains are contained in a cremation container which meets the following requirements:

(a) Assure protection to the health and safety of the crematory operator;

(b) Provide proper covering for the human remains; and

(c) Be resistant to leakage or spillage of bodily fluids.

~~((A crematory must not accept human remains in a cremation container having evidence of body fluid leakage.~~

~~((Human remains that are not embalmed must be held only within a mechanically or commercially acceptable refrigerated facility of adequate capacity, with a maximum temperature of 48 degrees Fahrenheit, or as determined by chapter 246-500 WAC.))~~ The holding facility must:

(a) Comply with WAC 246-500-020 and all applicable public health laws;

(b) Preserve the dignity of the human remains;

(c) Recognize the health and safety of crematory operators and others; and

(d) Be secure from access by anyone other than authorized personnel.

(3) If human remains are delivered to a crematory in a noncombustible container, the transfer of the remains to a combustible container must be performed by a properly licensed individual and in accordance with WAC 308-48-030.

(4) When a container is delivered and shows evidence of bodily fluid leakage, it must be returned to the contracting funeral establishment or transferred to a new container by a properly licensed individual.

(5) Human remains that are not embalmed must be held only within a mechanically or commercially acceptable refrigerated facility of adequate capacity, with a maximum temperature of 48 degrees Fahrenheit, and otherwise meet the requirements of chapter 246-500 WAC.

(6) If the crematory requires the removal of implanted devices, the devices must be removed by an embalmer or embalmer intern prior to delivery of the human remains to the crematory.

NEW SECTION

WAC 308-47-035 Holding human remains for alkaline hydrolysis or natural organic reduction. (1) A hydrolysis facility or natural organic reduction facility must not accept or hold human remains unless the human remains are in a container or shroud that is resistant to leakage or spillage of bodily fluids.

(2) The holding facility must:

(a) Comply with WAC 246-500-020 and all applicable public health laws;

(b) Preserve the dignity of the human remains;

(c) Recognize the health and safety of the hydrolysis facility or natural organic reduction facility operators and others; and

(d) Be secure from access by anyone other than authorized personnel.

(3) If human remains are delivered to a hydrolysis facility or natural organic reduction facility in a container or shroud that is not suitable for placement in the reduction vessel, the transfer of the remains to the vessel must be performed by a properly licensed individual and in accordance with WAC 308-48-030.

(4) When a container or shroud is delivered and shows evidence of bodily fluid leakage, it must be returned to the contracting funeral establishment or transferred to a new container or shroud by a properly licensed individual.

(5) Human remains that are not embalmed must be held only within a mechanically or commercially acceptable refrigerated facility of adequate capacity, with a maximum temperature of 48 degrees Fahrenheit, and otherwise meet the requirements of chapter 246-500 WAC.

(6) If the hydrolysis facility or natural organic reduction facility requires the removal of implanted devices, the devices must be removed by an embalmer or embalmer intern prior to delivery of the human remains to the facility.

AMENDATORY SECTION (Amending WSR 02-19-019, filed 9/9/02, effective 10/10/02)

WAC 308-47-040 ~~((Cremation))~~ Reduction of human remains. (1) ~~((Cremation))~~ Reduction must not take place until the burial transit permit and authorization for ~~((cremation))~~ the reduction method are obtained.

(2) Immediately prior to being placed within the ~~((cremation))~~ reduction chamber, the identification of the human remains must be verified by the ~~((crematory))~~ reduction facility operator. Appropriate identification of the human remains will be placed near the ~~((cremation))~~ reduction chamber in such a way as to identify the human remains being ~~((cremated))~~ reduced. The metal identification disc or metal tag must be placed in the ~~((cremation))~~ reduction chamber, with the human remains.

(3) Simultaneous ~~((cremation))~~ reduction of more than one human remains within the same ~~((cremation))~~ reduction chamber is not permitted, unless written authorization is obtained from the authorizing agent(s) ~~((of each human remains to be cremated simultaneously))~~. Such written authorization will exempt the ~~((crematory))~~ reduction facility from all liability for commingling the products of the ~~((cremation))~~ reduction process.

(4) Simultaneous ~~((cremation))~~ reduction of more than one human remains within the same ~~((cremation))~~ reduction chamber may be performed without the authorizations required in subsection (3) of this section, if:

(*) (a) Equipment, techniques, and other devices are employed that keep the human remains separate and distinct, before and during the ~~((cremation))~~ reduction process(;

•);

(b) Recoverable ((~~cremated~~) human remains following reduction are kept separate and distinct after the ((~~cremation~~) reduction process.

(5) ((~~Crematories~~) Reduction facilities licensed by the state funeral and cemetery board ((~~or the board of funeral directors and embalmers, will only~~)) will not be used for any other purpose than the ((~~cremation~~) reduction of human remains, cadavers, or human body parts.

AMENDATORY SECTION (Amending WSR 02-19-019, filed 9/9/02, effective 10/10/02)

WAC 308-47-050 Processing ((~~of cremated~~) human remains following reduction. (1) Upon completion of the ((~~cremation~~) reduction process, the end products ((~~of the cremation process~~)) must be removed from the ((~~cremation~~) reduction chamber, with the exception of residue.

(2) The ((~~cremation~~) end products must be placed within an individual container or tray in such a way that will ((~~insure against~~) prevent commingling with other ((~~cremated~~) human remains following reduction.

(3) Identification must be attached to the container or tray.

(4) All ((~~cremated~~) human remains following reduction must undergo processing to comply with applicable legal requirements.

(5) Processing ((~~or pulverization of cremated~~) of human remains following reduction may not be required if ((~~cremated~~) human remains are ((~~to be~~) placed in a cemetery, mausoleum, or columbarium, or ((~~building devoted exclusively to religious purposes, or where~~) if religious or cultural beliefs oppose the practice.

(6) All body prostheses, bridgework, or similar items removed from the ((~~cremated~~) human remains following reduction during processing will be disposed of by the ((~~crematory~~) reduction facility, as directed by the authorizing agent.

(7) If the reduction facility recycles metals or implants found during processing, the authorizing agent(s) must be advised in writing prior to reduction.

AMENDATORY SECTION (Amending WSR 02-19-019, filed 9/9/02, effective 10/10/02)

WAC 308-47-060 Packaging and storage of ((~~cremated~~) human remains following reduction. (1) ((~~The cremated~~) Human remains following reduction must be ((~~placed~~) packaged in a sealable container((~~, or in such~~) or containers as may have been ordered or supplied by the authorizing agent or the reduction facility.

(2) The packaged ((~~cremated~~) human remains will be identified. The metal identification disc or metal tag must stay with the ((~~cremated~~) human remains.

(3) If the ((~~cremated~~) entire human remains ((~~do~~) will not ((~~completely fill the~~) fit within the designated container, the ((~~remaining space may be filled with suitable packing material. The container must then be securely closed.~~

(4) If the entire cremated human remains will not fit within the designated container, the remainder of the cremated)) remainder of the human remains must be returned to

the authorizing agent in ((~~a second~~) additional containers, clearly identified as being part of, and together with((~~;~~)) the designated container. Upon written consent of the authorizing agent, excess ((~~cremated~~) human remains may be disposed of in any legal manner.

NEW SECTION

WAC 308-47-065 Recordkeeping requirements. (1)

A crematory, hydrolysis facility, or natural organic reduction facility must keep a permanent record of all reductions performed and the disposition or release of the human remains following cremation, alkaline hydrolysis, or natural organic reduction. The record must include the following information:

- (a) Name of deceased;
 - (b) Date of death;
 - (c) Place of death;
 - (d) Burial transit permit disposition date;
 - (e) Date of delivery of human remains to the reduction facility;
 - (f) Name(s) of authorizing agent;
 - (g) Relationship of authorizing agent(s);
 - (h) Name of entity that contracts with the reduction facility;
 - (i) Starting date of reduction process;
 - (j) Name of reduction facility operator;
 - (k) Name of person performing packaging;
 - (l) Date of packaging human remains following reduction;
 - (m) Date of release of the reduced human remains following reduction and the name of the individual(s) to whom the human remains were released; and/or
 - (n) Date and location of disposition of the human remains.
- (2) In addition to the recordkeeping requirements listed above, natural organic reduction facilities must also keep a permanent record of:
- (a) The ending date of the reduction process; and
 - (b) The daily temperature data for each natural organic reduction process, including records showing that the minimum temperature of 131 degrees Fahrenheit was reached for seventy-two consecutive hours.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-47-070 Disposition of ((~~cremated~~) unclaimed reduced human remains. (1) ((~~A crematory must keep a permanent record of all cremations performed and the disposition or release of the cremated human remains. The record must include the following information:~~

- ~~Date of death.~~
- ~~Date burial transit permit was issued.~~
- ~~Date of delivery of human remains to the crematory.~~
- ~~Date of cremation.~~
- ~~Name of crematory operator performing the cremation.~~
- ~~Name of person performing packaging, and date of packaging.~~

~~• Date of release of the cremated human remains and the name of the individual(s) to whom the cremated human remains were released; or~~

~~• Date of disposition of the cremated human remains.~~

~~(2) When cremated human remains have been in the possession of a crematory, funeral establishment or cemetery for a period of ninety days or more, the entity holding the cremated human remains may arrange for disposition in any legal manner, provided the entity:~~

~~• Attempts to contact the authorizing agent for disposition instructions by registered mail.~~

~~• Informs the authorizing agent(s) of the procedures that will be followed if disposition instructions are not received.~~

~~• Informs the authorizing agent(s) that disposition will take place if disposition instructions are not received within sixty days of initiation of the contact process.~~

~~• Informs the authorizing agent(s) that recovery of the cremated human remains, after the disposition, may or may not be possible.~~

~~• Maintains a permanent record of the location of the disposition.~~

~~(3)) When reduced human remains have been in the possession of a reduction facility, funeral establishment or cemetery for a period of ninety days or more, the entity holding the human remains following reduction may arrange for disposition in any legal manner, provided the entity:~~

~~(a) Attempts to contact the authorizing agent for disposition instructions by U.S. mail to the last known address;~~

~~(b) Informs the authorizing agent(s) of the procedures that will be followed if disposition instructions are not received;~~

~~(c) Informs the authorizing agent(s) that disposition will take place if disposition instructions are not received within sixty days of initiation of the contact process;~~

~~(d) Informs the authorizing agent(s) that recovery of the human remains following reduction, after the disposition, may or may not be possible; and~~

~~(e) Maintains a permanent record of the location of the disposition.~~

~~(2) No entity making disposition of ((cremated)) human remains following reduction under subsection (((2))) (1) of this section will be liable for the disposition or nonrecoverability of ((cremated)) the human remains.~~

NEW SECTION

WAC 308-47-075 Reduction facility requirements.

(1) Crematory facilities must:

(a) Only use a commercially produced crematory unit(s); and

(b) Employ a licensed crematory operator or operators.

(2) Hydrolysis facilities must:

(a) Only use a purpose built vessel as a reduction chamber which meets generally accepted standards of the death care profession;

(b) Employ a licensed alkaline hydrolysis operator or operators; and

(c) Comply with all other applicable local, state, and federal laws and regulations.

(3) Natural organic reduction facilities must:

(a) Only use a contained reduction vessel that is designed to promote aerobic reduction and minimizes odors and vectors;

(b) Employ a licensed natural organic reduction facility operator;

(c) Comply with all other applicable local, state, and federal laws and regulations; and

(d) Reach a minimum temperature of 131 degrees Fahrenheit for seventy-two consecutive hours during the reduction process.

NEW SECTION

WAC 308-47-080 Facility licensure requirements for crematories, hydrolysis facilities, and natural organic reduction facilities. (1) A license or endorsement is required in order to operate a crematory, hydrolysis facility, or natural organic reduction facility. Each applicant shall:

(a) Submit an application on a form approved by the funeral and cemetery board; and

(b) Pay a fee as determined by the director per RCW 43.24.086.

(2) The annual license renewal date for reduction facilities is January 31st.

(3) The regulatory fees for reduction facilities are collected at the time of renewal.

(4) All licenses must be posted at the reduction facility.

NEW SECTION

WAC 308-47-090 Operator licensure for those who conduct cremations, alkaline hydrolysis, or natural organic reduction. (1) Licenses are required for operators of each method of reduction. In order to operate a crematory, a hydrolysis facility, or a natural organic reduction facility, applicants must submit:

(a) An application on a form prescribed by the board;

(b) A nonrefundable application fee as defined in WAC 308-48-800; and

(c) A certificate of completion of operator training provided by the equipment manufacturer, or other provider generally accepted by the death care profession, or as approved by the board.

(2) Each operator license will expire annually on the operator's birth date and may be renewed by paying the renewal fee.

(3) Operators of equipment used to perform cremation, alkaline hydrolysis, or natural organic reduction must provide proof of current operator training every five years at the time of the license renewal.

(4) All licenses must be posted at the reduction facility.

NEW SECTION

WAC 308-47-100 Reduction facilities—Inspections.

(1) Crematories, alkaline hydrolysis facilities, and natural organic reduction facilities regulated under the authority of chapters 18.39 and 68.05 RCW are subject to inspection at least once each year by the inspector of funeral establishments, crematories, alkaline hydrolysis, and natural organic reduction facilities, funeral directors, and embalmers to

ensure compliance with Washington state laws and regulations related to health or the handling or disposition of human remains.

(2) Inspections shall cover compliance with applicable statutes and rules. Reduction facilities will be open for inspection during normal business hours. If the facility is not open, the ownership must identify someone to the department that can open the facility for an unannounced inspection, or provide a method of access to the inspector.

NEW SECTION

WAC 308-47-110 Regulatory fees due for change of ownership for reduction facilities. (1) The regulatory fees for crematories, alkaline hydrolysis facilities, and natural organic reduction are calculated per disposition and collected at the time of renewal of the license, permit, or endorsement.

(2) For a change of ownership, the selling entity is required to submit the regulatory fee for all dispositions performed by reduction facilities up to the date of transfer of ownership.

(3) Seller must pay the regulatory fees within thirty days after the date of the transfer of ownership.

Chapter 308-47A WAC

FINAL DISPOSITION PERMIT

NEW SECTION

WAC 308-47A-010 Definitions. (1) "Authorizing agent" means the person(s) legally entitled to control the disposition of the human remains.

(2) "Final disposition" means burial, entombment, inurnment or scattering.

NEW SECTION

WAC 308-47A-020 Final disposition of reduced human remains—Permit. (1) An authorizing agent or person or persons who have the right to control final disposition of reduced human remains under RCW 68.50.160(3) to dispose of human remains may do so without a permit.

(2) The authorizing agent may designate another person or entity to dispose of the reduced human remains. Where the designee regularly or occasionally disposes of reduced human remains for others, the designee must register to obtain a disposition permit to dispose of reduced human remains by land, sea, or air, where such disposition is made outside dedicated cemetery property.

(3) Reduced human remains may be scattered in any legal manner including:

(a) National parks, after receiving permission from the chief park ranger.

(b) State trust uplands, after receiving permission from the regional manager for each scattering.

(c) Public navigable waters under state control, including Puget Sound, Strait of Juan de Fuca, rivers, streams, and lakes.

(d) The Pacific Ocean beyond the mean lower low water mark. These scatterings must follow U.S. Environmental

Protection Agency's General Permit for Burial at Sea. This includes reporting the burial within thirty days to the regional administrator of the U.S. Environmental Protection Agency, Region 10.

(e) Private land, with the permission of the landowner.

NEW SECTION

WAC 308-47A-030 Final disposition permit application procedure. (1) Designees who regularly or occasionally dispose of reduced human remains must submit an application for a final disposition permit on a form prescribed by the board and pay the application fee.

(2) All final disposition permits issued under this rule shall be issued for the calendar year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any permit holder is transferred or sold.

(3) The final disposition permit fees shall be as set forth in chapter 308-48 WAC and the department shall collect in advance the fees required for licensing.

NEW SECTION

WAC 308-47A-040 Final disposition of reduced human remains—Records and documentation. (1) Final disposition permit holders must provide a certificate of disposition of human remains to the authorizing agent or person authorizing the disposition. The certificate shall identify:

(a) The name of the deceased;

(b) The location and date of the disposition of the human remains;

(c) The manner of disposition (boat, air, or other);

(d) The name of the authorizing agent; and

(e) The name of the funeral home, crematory, hydrolysis facility, natural organic reduction facility, or cemetery arranging the service, if applicable.

(2) Final disposition permit holders must:

(a) Maintain copies of records required under subsection (1) of this section for seven years from the date of disposition; and

(b) Make records available for inspection by the board.

(3) Final disposition permit holders shall report the number of dispositions performed in the previous year on the annual renewal form supplied by the department.

(a) Failure to provide such a report shall automatically suspend the permit.

(b) Such permit may be restored by making the proper report to the department.

Chapter 308-48 WAC

FUNERAL DIRECTORS ((AND)), EMBALMERS, CREMATORIES, ALKALINE HYDROLYSIS FACILI-

**TIES, AND NATURAL ORGANIC REDUCTION
FACILITIES**

AMENDATORY SECTION (Amending WSR 09-06-043, filed 2/25/09, effective 3/28/09)

WAC 308-48-010 Definitions. For the purpose of these rules, the following terms will be construed as follows:

(1) **"Arrangements"** means the discussion(s) that take place between the funeral director and person(s) with the right to control disposition, or their designated representative of the deceased, during which the funeral director provides options for the preparation of the body, use of facilities and staff, and selection of merchandise including the associated prices; and after which the funeral director provides a signed written summary of the services and/or merchandise selected to be provided by the funeral establishment.

(2) **"Authorizing agent"** means the person(s) legally entitled to control the disposition of the human remains.

(3) **"Board"** means the funeral and cemetery board.

(4) **"Embalmer"** means a person engaged in the profession or business of disinfecting and preserving human remains for transportation or final disposition.

(5) **"Embalmer intern"** is a person engaged in the study and supervised practical training of embalming under the instruction of a qualified sponsor.

(6) **"Final disposition"** means burial, entombment, inurnment, or scattering.

(7) **"Funeral director"** means a person engaged in the profession or business of providing for the care, shelter, transportation, and arrangements for the disposition of human remains that may include arranging and directing funeral, memorial, or other services.

(8) **"Funeral director intern"** is a person engaged in the study and supervised practical training of funeral directing under the instruction of a qualified sponsor.

~~("In its employ" as used in RCW 18.39.148 will include personnel who are employed on a part-time basis as well as personnel who are employed on a full-time basis and be in service at a specific location and involved in the execution of the daily activities of the business.)~~

(9) **"Funeral establishment"** means a place of business licensed in accordance with RCW 18.39.145, that provides for any aspect of the care, shelter, transportation, embalming, preparation, and arrangements for the disposition of human remains and includes all areas of such entity and all equipment, instruments, and supplies used in the care, shelter, transportation, preparation, and embalming of human remains.

(10) **"Internship"** means a course of required practical training, for a specified period of time, as a prerequisite for obtaining a license to practice the profession of funeral directing or embalming.

AMENDATORY SECTION (Amending WSR 09-06-043, filed 2/25/09, effective 3/28/09)

WAC 308-48-015 Retired status certificate of registration. Any individual who has been issued a license, in accordance with chapter 18.39 RCW, as a funeral director

and/or embalmer having reached at least the age of sixty-two and having discontinued active practice may be eligible to obtain a "retired certificate of registration." If granted, further certificate of registration renewal fees and continuing education are waived. For the purpose of this provision, active practice has the same meaning as funeral director and/or embalmer under RCW 18.39.010 ~~((1) and (2))~~ (3) and (4).

(1) Applications. Those persons wishing to obtain the status of a retired registration shall complete an application form, as provided by the board ~~(, and pay the required application fee)~~. The retired status would become effective upon the filing of a complete application.

(2) Privileges. In addition to the waiver of the renewal fee and continuing education, a retired registrant is permitted to:

(a) Retain and display the board-issued wall certificate of registration;

(b) Use the title funeral director and/or embalmer, provided that it is supplemented by the term "retired";

(c) Offer consultant services relative to funeral directing and embalming;

(d) Provide references for persons seeking licensure under 18.39 RCW;

(e) Serve as a volunteer in an instructional capacity on funeral directing and/or embalming topics; and

(f) Provide services as a technical expert before a court, or in preparation for pending litigation, on matters directly related to funeral directing and/or embalming work performed by the registrant prior to being granted a retired registration.

(3) Restrictions. A retired registrant is not permitted to: Perform any duties of a funeral director and/or embalmer on a full-time, part-time or occasional basis.

(4) Certificate of registration reinstatement. A retired registrant, upon written request to the board and payment of the current renewal fee, may resume active practice as a funeral director and/or embalmer. At that time, the retired registrant shall be removed from retired status and placed on valid/active status in the records of the board.

(5) Exemptions. Under no circumstances shall a registrant be eligible for a retired certificate of registration if ~~(his/ her)~~ their license(s) has been revoked, surrendered, or in any way permanently terminated by the board under chapter 18.39 RCW. Registrants who are suspended from practice and/or who are subject to terms of a board order at the time they reach age sixty-two, shall not be eligible for a retired registration until such time that the board has removed the restricting conditions.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-48-030 Care of human remains. (1) Funeral establishments, funeral directors, embalmers, interns, employees or agents while providing for the care and handling of human remains shall:

(a) Comply with all applicable Washington state laws, rules and regulations related to health or the handling, transportation or disposition of human remains. This rule includes compliance with OSHA/WISHA standards specifically

defined in OSHA 29 C.F.R. 1910.1030 with regard to the handling of human remains and infectious materials.

(b) Not perform any act which will tend to affect adversely the dignity, individual integrity or the respectful and reverential handling and burial or other ~~((customary))~~ lawful disposition of human remains.

(c) Upon receipt of the human remains, obtain the identity of the human remains as established by the institution, agency, or individual releasing the remains and place an identification bracelet or tag on the ankle or wrist of the remains. In the case of a remains that must be placed in a protective pouch due to the condition of the remains, an identification bracelet or tag should be placed inside the pouch and a second bracelet or tag attached to the exterior of the pouch.

(d) Follow the directions of the individual or individuals that has/have the right to control the disposition of the human remains.

(e) Record and maintain the following information:

(i) Name of deceased;

(ii) Date of death;

(iii) Place of death;

(iv) Name and relationship of person(s) having the right to control the disposition;

(v) Date and time of receipt of remains;

(vi) Date and time of refrigeration and/or embalming;

(vii) Date and time of removal of remains from refrigeration;

(viii) Method, date and location of disposition.

(f) Not separate any organs, viscera or appendages of a human remains from any other portion of the remains for a separate or different disposition. ~~((The entire nonembalmed human remains that the funeral establishment has received and has possession of must be maintained and disposed of as one entity.))~~

(g) Provide refrigerated holding of a human remains for which embalming has not been authorized. In addition to these regulations, the handling and refrigeration of human remains shall be governed by chapter 246-500 WAC.

(2) The care and preparation for burial or other disposition of all human remains shall be private. No one shall be allowed in the embalming or preparation rooms while a human remains is being embalmed or during the course of an autopsy except the licensee, ~~((his authorized))~~ their licensed employees, and public officials in the discharge of their duties. This rule shall not apply to ~~((duly authorized))~~ medical personnel employed in a ~~((ease))~~ situation requiring medical expertise or those authorized to be present by the decedent's next of kin.

(3) Every licensee shall provide a written itemization of any property, money, jewelry, possessions or other items ~~((of significant value))~~ found on a human remains in the licensee's care, custody or control to the decedent's next of kin or the proper authorities.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-48-031 Funeral establishment facility, equipment, and embalming and preparation room stan-

dards. A funeral establishment or branch establishment shall:

(1) Have an exclusive area/office at an identified location for conducting the business which is accessible to the public.

(2) Provide private and secure area(s) for holding human remains which will include:

(a) A mechanically or commercially acceptable refrigerated holding area of adequate capacity for unembalmed remains with a maximum temperature of 48 degrees Fahrenheit or as determined by chapter 246-500 WAC;

(b) A sink with hot and cold running water;

(c) Covered receptacles for soiled linens, bandages, refuse and other waste materials which meet OSHA, WISHA, department of health and any other applicable regulations;

(d) Adequate chemicals for the disinfection of human remains and the equipment used in handling and caring for human remains;

(e) Chemical storage that meets OSHA, WISHA, department of health and any other applicable regulations.

(3) Provide rest rooms that are available for staff and the public.

(4) In the case where the holding of human remains is not provided at this facility, provide the identification of the facility upon request to the board and the individual or individuals that has/have the right to control the disposition of the human remains where this establishment or branch provides for the holding and/or preparation of the human remains entrusted to its care (this ~~((offsite))~~ off-site facility must meet the requirements of subsection (2) of this section).

(5) Provide for the privacy of uncasketed human remains in vehicles used for transportation of the remains by screening, curtains, or adequately tinted windows.

(6) Provide ~~((that if embalming is performed at the establishment or branch, no embalming of a human remains shall be performed in a funeral establishment or branch establishment except in a room set aside exclusively for embalming or))~~ a room used exclusively for embalming human remains if embalming is performed at the establishment or branch. Such room shall be maintained and kept in a clean sanitary condition~~((, and))~~. Every embalming and preparation room shall be constructed, equipped, and maintained as follows:

(a) The surfaces of the floor, walls, and ceiling shall be covered with tile or other hard, smooth, impervious washable material.

(b) The room shall be adequately lighted and adequately ventilated. The ventilation shall be provided by an exhaust fan and shall comply with OSHA/WISHA standards.

(c) The room shall be equipped and provided with hot and cold running water, a utility sink, and cabinets, closets or shelves for instruments and supplies.

(d) The room shall be equipped with adequate sewage and waste disposal and drainage facilities and systems and comply with OSHA/WISHA standards.

(e) The doors shall be tight closing and rigid and any windows of the room shall be so maintained as to obstruct any view into such room. The room's entry door(s) must be labeled "Private" or "Authorized Entry Only," and must be locked at all times.

(f) The embalming or preparation table shall be nonporous.

(g) The room shall be equipped with proper and convenient covered receptacles for biohazard refuse.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-48-040 Control of human remains. No licensee will, directly or indirectly, assume control of any human remains without having first obtained authority from the person(s) having the right to control the disposition of the human remains under RCW 68.50.160, as to matters relating to the preparation, handling and final disposition of the human remains (including steps in preparation, autopsy, embalming, dressing, viewing, videotaping, photographing((?)), funeral, ((burial and cremation)) disposition merchandise, and disposition arrangements).

AMENDATORY SECTION (Amending WSR 02-19-019, filed 9/9/02, effective 10/10/02)

WAC 308-48-050 ((Confidence)) Confidentiality. No licensee will divulge any information as to illness, cause of death, financial affairs or transactions, and any other information customarily considered confidential, obtained while serving in such licensed capacity.

AMENDATORY SECTION (Amending WSR 02-19-019, filed 9/9/02, effective 10/10/02)

WAC 308-48-060 Against concealment of crime. (1) No licensee will remove, embalm, or perform other preparation of a human remains when ((he/she has)) they have information indicating crime or violence in connection with the cause of death, until permission is obtained from a coroner, medical examiner or other qualified official.

(2) Any licensee having or obtaining, as a result of providing services, any information in relation to a possible crime must communicate such information to a properly qualified official.

(3) No licensee will perform any act knowing that it will conceal evidence of crime.

AMENDATORY SECTION (Amending WSR 87-11-063, filed 5/20/87)

WAC 308-48-075 Display of licenses. (1) A licensee must display a license in each location where ((he/she is)) they are employed. ((Legal duplicates provided by the department at a fee to be determined by the director will be displayed when a licensee is employed at more than one location. The display of photocopies is prohibited.))

(2) If licensed work is provided by an agent at the funeral establishment or branch, a copy of the license will be displayed in each location where the licensed work occurs.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-48-080 Improper use of license. No licensee shall lend, place, permit or authorize the placement of ((his/her)) their license in any establishment or place of business unless the licensee is an owner, part owner or bona fide employee of such place of business, nor shall a funeral establishment or place of business to pretend or represent that it is legally qualified to perform funeral directing or embalming by any such improper use of ((his/her)) their license.

AMENDATORY SECTION (Amending WSR 02-19-019, filed 9/9/02, effective 10/10/02)

WAC 308-48-085 Funeral establishments and ((crematories)) branch establishments—Inspections. (1) Funeral establishments and ((crematories)) branch establishments licensed under the provisions of chapter 18.39 RCW will be inspected at least once each year by the duly appointed department inspector.

(2) Inspections shall cover compliance with applicable statutes and rules. Funeral establishments and ((crematories)) branch establishments will be open for inspection during normal business hours. If the establishment or ((crematory)) branch establishment is not open, the ownership must identify someone to the department that can open the establishment or ((crematory)) branch establishment for an unannounced inspection, or provide a method of access to the inspector.

NEW SECTION

WAC 308-48-132 Funeral director licensure requirements. An applicant for a license as a funeral director shall meet the following requirements:

- (1) Be at least eighteen years of age;
- (2) Complete the following education requirements at an accredited institution approved by the board:
 - (a) Obtain an associate of arts degree in mortuary science; or
 - (b) Complete two years of college course work as follows:
 - (i) Obtain sixty semester credits or ninety quarter credits of college-level instruction with a minimum 2.0 grade point, or a grade of C or better, in courses listed in (b)(ii) of this subsection.

(ii) Credits shall include one course in psychology, one in mathematics, two courses in English composition, two courses in social science, and three courses selected from the following subjects: Behavioral sciences, public speaking, counseling, business administration and management, computer science, and first aid.

(3) Complete a one-year internship with a licensed funeral director; and

(4) Pass an examination in the funeral arts and an examination in the laws of this state pertaining to the handling, care, transportation, and disposition of human remains and the contents of chapter 18.39 RCW.

(5) An applicant's military training or experience may satisfy some or all of the education and training requirements

for licensure as determined by the board on a case-by-case basis.

NEW SECTION

WAC 308-48-135 Embalmer licensure requirements.

An applicant for a license as an embalmer must meet the following requirements:

- (1) Be at least eighteen years of age.
- (2)(a) Obtain an associate of arts degree in mortuary science; or
- (b) Complete a course of instruction in an accredited mortuary science college program and other college courses that total sixty semester hours or ninety quarter hours.
- (3) Complete a two-year internship under a licensed embalmer.
- (4) Pass an examination in the funeral sciences and an examination in the laws of this state pertaining to the handling, care, transportation, and disposition of human remains, and the contents of chapter 18.39 RCW.
- (5) An applicant's military training or experience may satisfy some or all of the education and training requirements for licensure as determined by the board on a case-by-case basis.

AMENDATORY SECTION (Amending WSR 07-18-030, filed 8/28/07, effective 9/28/07)

WAC 308-48-160 Course of training—Embalmer interns. (1) For the purposes of RCW 18.39.035, the term "two year course of training" shall include the embalming of at least ~~((fifty))~~ twenty-five human remains under the supervision of a licensed embalmer.

(2) The term "two year" shall consist of at least thirty-six hundred hours of employment and cannot be completed in a period of time less than two calendar years.

(3) Registered embalmer interns shall provide a quarterly report to the board on a form supplied by the board containing information relating to the embalmings the intern has assisted with or performed during the required term of internship.

(4) Licensed sponsors shall provide a quarterly report to the board on a form supplied by the board showing the progress of the intern toward the skill level required to work independently.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-48-180 Renewal of licenses(~~(, registrations, endorsements and permits))—Funeral directors, embalmers, funeral director interns and embalmer interns.~~ (1) The annual license (~~(or registration)~~) renewal date for embalmers, funeral directors and interns is the licensee's birth date. Individuals making application and fulfilling requirements for initial license and examination will be issued a license (~~(or registration)~~), which will expire on their next birth date.

(2) All licensees, with the exception of academic intern, must renew annually.

(3) Before the expiration date of the license, the director will mail a notice of renewal. The licensee must return such notice along with current renewal fees prior to the expiration of the license. Failure to renew the license prior to the expiration date will require payment of ~~((the penalty))~~ a late fee.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-48-200 Report of internship registration, termination, transfer and credit. (1) The responsibility for notifying the director, department of licensing of internship registration and termination rests with the ~~((employing funeral establishment))~~ licensee sponsor. In order to protect the status of the intern in cases where the employing licensee fails to initiate the required report of registration or termination, the affected intern should initiate and ensure submission of same. The notification shall be certified by signature of the sponsor.

(2) No credit for internship will be allowed for any period during which the intern is not registered pursuant to RCW 18.39.120. In the event an intern's sponsor dies or is otherwise incapable of certifying internship credit, such credit may be given by certification by another licensed funeral director or embalmer who has knowledge of the work performed and the credit due or by documentation or reasonable proof of such credit as determined by the board.

NEW SECTION

WAC 308-48-205 Abandoned licensure applications.

If a licensing applicant fails to complete the licensing process and their records show no activity for six consecutive years, the board will consider the application abandoned. No activity includes, but is not limited to:

(1) Failure to submit the required documents within six consecutive years from the receipt of the most recent information submitted.

(2) Failure to provide the board with any written communication during six consecutive years indicating the applicant is attempting to complete the licensing process.

(3) If the application is considered abandoned, it may be archived or destroyed, and the applicant will be required to reapply for licensure and comply with the licensing requirements in effect at the time of reapplication.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-48-210 Establishment licensure. (1) ~~((It is the intent of the board that the establishment licensure process serve to protect consumers by identifying to the department all locations subject to regulation.))~~ Any provider of any aspect of the care, shelter, transportation, embalming, other preparation and arrangements for the disposition of human remains must be licensed as a funeral establishment. Establishments must obtain a funeral establishment or branch license for each location.

(2) The establishment license requirement does not apply to a facility whose sole function is to perform reduction of human remains.

(3) Branches of an establishment may operate under the general license of the establishment, pursuant to RCW 18.39.145 and 18.39.148 and the following terms and conditions:

(a) Branch(es) must operate under the same name as the establishment.

(b) Branch(es) must display a current branch license.

(c) Branch(es) must have a licensed funeral director in its employ and available to provide any services requiring the professional skills of a licensee.

(d) The failure of a branch to meet the standards of an establishment may result in cancellation of the establishment license, pursuant to RCW 18.39.148.

NEW SECTION

WAC 308-48-220 Designated funeral directors—Qualifications and responsibilities. (1) For the purposes of RCW 18.39.145 each funeral establishment and branch establishment must employ a designated funeral director. The designated funeral director must:

(a) Have a minimum of one year of practical experience as a licensed funeral director in the state of Washington.

(b) Be involved in the execution of the daily activities of the business.

(c) Complete and submit the designated funeral director form when beginning and leaving the position of designated funeral director.

(2) The designated funeral director may be held responsible for the funeral establishment's compliance with state law or other regulation affecting the handling, custody, care, transportation, or disposition of human remains.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-48-530 Continuing education (~~basic~~) requirements(~~(—Amount)~~). (~~(1) Every individual licensed as a funeral director and/or embalmer or registered as a funeral director intern and/or embalmer intern, shall be required to complete ten hours of approved continuing education every two years as a condition of renewal of such licenses or registrations.~~

~~(2) Continuing education credits in excess of the required hours earned in any renewal period may not be carried forward to a subsequent renewal period.~~

~~(3) The department shall not renew a license or registration or issue a new license or registration to any person who has failed to submit evidence of completion of ten hours of approved continuing education for the prior two-year period.)~~ To meet the statutory continuing education requirement for renewing licenses for funeral directors, embalmers, funeral director interns and embalmer interns, the board requires the following:

(1) To maintain active practice, licensees must accumulate five hours of continuing education hours (CE) for the upcoming one year renewal period.

(a) The five hours of CE must include one hour of OSHA/WISHA training.

(b) Credits in excess of five hours cannot be carried forward to another renewal period.

(2) The CE accumulated is subject to audit by the board.

(3) Licensees are responsible to seek out qualifying CE that can be demonstrated to the board as relevant to professional development.

(a) Activities are not preapproved by the board.

(b) Activities must be relevant to the practice of funeral directing (for licensed funeral directors and funeral director interns) or embalming (for licensed embalmers and embalmer interns) and may include technical, ethical, or managerial content.

(c) All activities must have a clear purpose and objective that will maintain, improve, or expand skills and knowledge relevant to the practice of the profession(s).

(4) The board is the final authority with respect to claimed CE and the respective CE credit.

(5) The CE becomes eligible for credit upon completion of the given activity.

(6) Licensees must maintain the records of the CE and have the records available for inspection at their place of employment. The records must include the date of the activity, the provider's name, a description of activity and the number of CE hours.

(7) Licensees must keep their records for the cumulative time in the current renewal period plus the two years before the last renewal (three years total).

(8) By renewing a professional funeral director license, embalmer license, funeral director intern license or embalmer intern license, the licensee attests they have completed the required continuing education for that renewal period.

(9) The board will audit a random sample of licensees yearly. If a licensee is selected for an audit, the board will provide instructions about how to respond.

(10) Licensees may face disciplinary action for failing to complete the continuing education requirement or falsifying CE records.

(11) If an audit disqualifies credits that a licensee reported to the board and results in them failing to complete the CE requirements, the board may require the shortage to be made up over a period of time established by the board.

AMENDATORY SECTION (Amending WSR 90-24-056, filed 12/3/90, effective 1/3/91)

WAC 308-48-540 Continuing education requirement to reinstate lapsed license (~~or registration~~). Any person seeking to reinstate a license (~~or registration~~) which has lapsed for less than one year must comply with the continuing education requirements for regular renewal of the license (~~or registration~~). Any person seeking to reinstate a license (~~or registration~~) which has lapsed for one year or longer must present satisfactory evidence of having completed at least (~~ten~~) five hours of approved continuing education activities for the (~~two-year~~) period prior to (~~his or her~~) their reinstatement.

AMENDATORY SECTION (Amending WSR 85-01-077, filed 12/19/84)

WAC 308-48-570 Continuing education discretion-ary exception for emergency situation. In emergency situations, such as personal or family sickness, the funeral and

cemetery board ((of funeral directors and embalmers)) may waive, for good cause shown, all or part of the continuing education requirement for a ((particular two-year)) renewal period for an individual licensee ((or registrant)). The board will require such verification of the emergency as is necessary to prove its existence.

AMENDATORY SECTION (Amending WSR 85-01-077, filed 12/19/84)

WAC 308-48-580 ((Board approval of continuing education activities.)) Transfer of ownership or control—New licenses required. ((All continuing education activities, to satisfy the licensure/registration requirements, must be approved by the board of funeral directors and embalmers. Further, the board shall certify the number of hours to be awarded for participation in each approved continuing education activity.)) A new license must be obtained following the sale or transfer of ownership or a controlling interest in a cemetery authority, reduction facility, funeral establishment, or branch establishment. All licenses are nontransferable.

AMENDATORY SECTION (Amending WSR 14-24-067, filed 11/26/14, effective 1/1/15)

WAC 308-48-800 ((Funeral director/embalmer)) Fees. ((1) Suspension of fees. Effective January 1, 2015, the listed fees shown in subsection (2) of this section are suspended and replaced with the following:

Title of Fee	Fee
Embalmer:	
Renewal	\$135.00
Late renewal penalty	32.00
Embalmer intern:	
Intern renewal	90.00
Funeral director:	
Renewal	135.00
Late renewal penalty	32.00
Funeral director intern:	
Intern renewal	90.00
Funeral establishment:	
Renewal	295.00
Branch renewal	295.00
Preneed renewal	205.00
Crematory endorsement renewal	
Charge per cremation performed during previous calendar year:	7.20
Charge per cremation	7.20
Certificate of removal registration:	
Renewal	14.00

The fees set forth in this section shall revert back to the fee amounts shown in this section on January 1, 2017.

(2) Fees:

Title of Fee	Fee
Embalmer:	
State examination application	\$100.00
Renewal	150.00
Late renewal penalty	35.00
Duplicate	25.00
Embalmer intern:	
Intern application	135.00
Application for examination	100.00
Intern renewal	100.00
Duplicate	25.00
Funeral director:	
State examination application	100.00
Renewal	150.00
Late renewal penalty	35.00
Duplicate	25.00
Funeral director intern:	
Intern application	135.00
Application for examination	100.00
Intern renewal	100.00
Duplicate	25.00
Funeral establishment:	
Original application	400.00
Renewal	325.00
Branch registration	350.00
Branch renewal	325.00
Preneed application	250.00
Preneed renewal:	225.00
Crematory endorsement registration	210.00
Crematory endorsement renewal	
Charge per cremation performed during previous calendar year:	8.00
Charge per cremation performed before 1/1/2011:	6.50
Charge per cremation performed on or after 1/1/2011:	8.00
Academic intern	No fee
Certificate of removal registration:	
Application	30.00
Renewal	15.00
Retired status certificate	No fee))

(1) Funeral fees.

<u>Title of Fee</u>	<u>Fee</u>	<u>Title of Fee</u>	<u>Fee</u>
<u>Embalmer:</u>		<u>Charge per each interment, entombment and inurnment during preceding calendar year collected at renewal or change of ownership</u>	
State examination application	\$100.00	<u>Prearrangement sales license</u>	
Renewal	150.00	<u>Application</u>	250.00
Late renewal fee	35.00	<u>Renewal</u>	225.00
Duplicate	25.00	<u>Exemption from prearrangement sales license</u>	
<u>Embalmer intern:</u>		<u>Application</u>	70.00
Intern application	135.00	<u>Renewal</u>	35.00
Application for examination	100.00	<u>Disposition permit for human remains following cremation, alkaline hydrolysis, or natural organic reduction</u>	
Intern renewal	100.00	<u>Application</u>	70.00
Late renewal fee	35.00	<u>Renewal</u>	35.00
Duplicate	25.00		
<u>Funeral director:</u>			
State examination application	100.00		
Renewal	150.00	<u>Application</u>	70.00
Late renewal fee	35.00	<u>Renewal</u>	35.00
Duplicate	25.00		
<u>Funeral director intern:</u>			
Intern application	135.00		
Application for examination	100.00	<u>(3) Reduction facility fees.</u>	
Intern renewal	100.00	<u>Title of Fee</u>	<u>Fee</u>
Late renewal fee	35.00	<u>Crematory license application</u>	\$210.00
Duplicate	25.00	<u>Alkaline hydrolysis license application</u>	210.00
<u>Funeral establishment:</u>		<u>Natural organic reduction license application</u>	210.00
Original application	400.00	<u>Renewal:</u>	8.00
Renewal	325.00	<u>Regulatory fee for crematories, alkaline hydrolysis facilities, and natural organic reduction facilities collected at time of renewal per cremation, hydrolysis, or natural organic reduction performed during previous calendar year</u>	
Branch license	350.00	<u>Crematory operator license:</u>	
Branch renewal	325.00	<u>Application</u>	135.00
Preneed application	250.00	<u>Renewal</u>	100.00
Preneed renewal	225.00	<u>Alkaline hydrolysis operator license:</u>	
Academic intern	No fee	<u>Application</u>	135.00
<u>Certificate of removal license:</u>		<u>Renewal</u>	100.00
Application	30.00	<u>Natural organic reduction facility operator license:</u>	
Renewal	15.00	<u>Application</u>	135.00
Retired status certificate	No fee	<u>Renewal</u>	100.00

(2) Cemetery fees.

<u>Title of Fee</u>	<u>Fee</u>	<u>Title of Fee</u>	<u>Fee</u>
<u>Certificate of authority:</u>		<u>Application</u>	135.00
Application	\$300.00	<u>Renewal</u>	100.00
Renewal:	6.20		

AMENDATORY SECTION (Amending WSR 07-18-030, filed 8/28/07, effective 9/28/07)

WAC 308-48-840 Funeral director and embalmer interns. (1) ~~((Registration))~~ A license as a funeral director intern or embalmer intern shall not exceed a time period of

five years (~~from the date of initial registration~~) cumulative. Following completion of the internship program:

~~((The registration))~~ (a) The license for internship will not be renewed.

~~((b))~~ (b) The intern must qualify for licensure as a funeral director, embalmer or funeral director and embalmer.

(2) Interns must be eighteen years of age and registered under the sponsorship and supervision of a licensed funeral director, embalmer or funeral director and embalmer.

(3) Interns whose job duties require that they perform work at multiple funeral establishment locations may do so and receive training from their sponsor and other licensees as approved by the sponsor.

AMENDATORY SECTION (Amending WSR 07-18-030, filed 8/28/07, effective 9/28/07)

WAC 308-48-850 Intern sponsors—Qualifications, limitations and responsibilities. Licensees who supervise interns:

~~((1))~~ (1) Must be working and located in the same licensed establishment as the intern, provided: Sponsors may permit interns to perform work at ~~((multiple funeral))~~ branch establishment locations if required by their job duties.

~~((2))~~ (2) Each sponsor can supervise a maximum of three interns.

~~((3))~~ (3) Sponsors of funeral director interns must have a minimum of one year of practical experience as a licensed funeral director in the state of Washington.

~~((4))~~ (4) Sponsors of embalmer interns must have a minimum of one year of practical experience as a licensed embalmer in the state of Washington.

~~((5))~~ (5) Sponsors are responsible for work performed by interns registered under the supervision of the sponsor.

AMENDATORY SECTION (Amending WSR 07-18-030, filed 8/28/07, effective 9/28/07)

WAC 308-48-870 Leave of absence—Interns. A leave of absence from internship requirements may be granted by the board with the following provisions:

~~((1))~~ (1) The intern submits an appeal to the board for a leave of absence.

~~((2))~~ (2) The intern is enlisted in military service of the United States or called to active duty in the United States armed forces and resumes internship within one year of release from military service.

~~((3))~~ (3) The intern is enrolled as a full-time student in a funeral service education program accredited by the American Board of Funeral Service Education (ABFSE).

~~((4))~~ (4) The board reserves the right to make a determination to waive internship requirements for extenuating circumstances.

AMENDATORY SECTION (Amending WSR 07-18-030, filed 8/28/07, effective 9/28/07)

WAC 308-48-880 ~~((Transporting))~~ Transportation of human remains. ~~((For the purpose of RCW 18.39.010(1), the board has determined that))~~ (1) Transportation of human remains may be performed by ~~((unregistered))~~ unlicensed

persons who are employed by licensed funeral establishments in accordance with WAC 246-500-040.

(2) A business established for the sole purpose of removals and/or transportation of human remains is required to obtain a funeral establishment license in accordance with RCW 18.39.145.

(3) All transportation of human remains shall be in accordance with chapter 246-500 WAC and RCW 70.58.230.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-48-350 AIDS prevention and information education requirements.

WAC 308-48-510 Continuing education requirements—Purpose.

WAC 308-48-520 Effective date of continuing education requirement.

WAC 308-48-550 Continuing education reporting requirement.

WAC 308-48-560 Continuing education documentation may be required.

WAC 308-48-590 Qualification for board approval of continuing education activities.

WAC 308-48-600 Procedure for obtaining board approval of continuing education activity.

WAC 308-48-780 Crematories—Inspections.

WAC 308-48-810 Brief adjudicative proceedings—When they can be used.

WAC 308-48-815 Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings.

WAC 308-48-860 Registered intern examination.

AMENDATORY SECTION (Amending WSR 90-17-148, filed 8/22/90, effective 9/22/90)

WAC 308-49-100 Purpose. The purpose of this chapter is to implement the provisions of RCW 18.39.240 through 18.39.345 ~~((and 18.39.360, by establishing))~~ and to establish rules for the registration of funeral establishments which enter into prearrangement funeral service contracts and to establish uniform minimum requirements for such contracts and prearrangement trust funds.

AMENDATORY SECTION (Amending WSR 90-17-148, filed 8/22/90, effective 9/22/90)

WAC 308-49-130 Definitions. ~~((Unless the text in this chapter clearly states or requires otherwise, definitions shall be as set forth in RCW 18.39.010.))~~ (1) "Board" means the funeral and cemetery board created pursuant to RCW 18.39.-173.

(2) "Director" means the director of licensing.

(3) "Embalmer" means a person engaged in the profession or business of disinfecting and preserving human remains for transportation or final disposition.

(4) "Funeral director" means a person engaged in the profession or business of providing for the care, shelter, transportation, and arrangements for the disposition of human remains that may include arranging and directing funeral, memorial, or other services.

(5) "Funeral establishment" means a place of business licensed in accordance with RCW 18.39.145, that provides for any aspect of the care, shelter, transportation, embalming, preparation, and arrangements for the disposition of human remains and includes all areas of such entity and all equipment, instruments, and supplies used in the care, shelter, transportation, preparation, and embalming of human remains.

(6) "Funeral merchandise or services" means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

(7) "Licensee" means any person or entity holding a license, registration, endorsement, or permit under this chapter issued by the director.

(8) "Method of disposition" means burial, entombment, cremation, alkaline hydrolysis, natural organic reduction, anatomical donation or removal from state.

(9) "Prearrangement funeral service contract" means any contract under which, for a specified consideration, a funeral establishment promises, upon the death of the person named or implied in the contract, to furnish funeral merchandise or services.

(10) "Public depository" means a public depository defined by RCW 39.58.010 or a state or federally chartered credit union.

AMENDATORY SECTION (Amending WSR 90-17-148, filed 8/22/90, effective 9/22/90)

WAC 308-49-140 Registration of establishments. (1)

Each funeral establishment entering into prearrangement funeral service contracts in which one or more of the following conditions exist must be registered with the board before entering into such contracts:

(a) The sales price of the contract, using either trust or insurance as a method of funding, guarantees a final price for merchandise and services. The guarantee assures the purchaser that there will be no additional charges for the merchandise and services disclosed within the agreement.

(b) The sales price of the contract using a trust as a method of funding plus accruals will be applied toward the cost of merchandise and services at the time of need. Should the cost of merchandise and services selected at the time of need exceed the sales price of the contract plus accruals, the purchaser will pay the difference. Should the cost of merchandise and services selected at the time of need be less than the sales price of the contract plus accruals, the purchaser will receive a refund for the difference.

~~((e) Insurance is used as a method of funding guaranteeing a final price for merchandise and services. Such guarantee assures the purchaser that there will be no additional charges for merchandise and services disclosed in the agreement.))~~

(2) Before entering into any prearrangement funeral service contracts in this state, a funeral establishment shall first obtain a certificate of registration from the board. To apply for registration, a funeral establishment must file an application on forms approved by the board of funeral directors and embalmers, which includes:

(a) The name, address, and telephone number of the funeral establishment;

(b) A statement of the establishment's current financial condition and an explanation of how the establishment plans to offer, market and service prearrangement contracts including:

(i) The type of business organization which operates the funeral establishment, e.g., sole proprietorship, partnership, or corporation and a list of all officers, directors, partners and managers by name and title, and any person owning more than ten percent of the business;

~~((A balance sheet and a profit and loss statement for the most recently concluded fiscal year and/or))~~ Other ~~((such))~~ fiscal documents as the board may require~~((s))~~.

(c) The prearrangement funeral service contract forms the establishment proposes to use need not be in final printed form when submitted; however, a copy of the final printed form shall be filed with the board before the form is used;

(d) Identification of the trustee(s) of the prearrangement funeral service trust, including address and telephone number~~((s))~~; and

(e) A copy of the prearrangement funeral service trust agreement and the prearrangement funeral service trust depository agreement.

(3) Upon review of the application, the board may require additional information or explanation prior to registration or refusing to register the funeral establishment.

(4) The application shall be accompanied by a check payable to the state treasurer in the amount required by the director for issuance of the certificate of registration.

AMENDATORY SECTION (Amending WSR 02-19-019, filed 9/9/02, effective 10/10/02)

WAC 308-49-150 Prearrangement funeral service contract form requirements. (1) The terms of prearrangement funeral service contracts are of substantial importance to both consumers and the establishment. Prearrangement funeral service contracts must be approved by the board before being used by a funeral establishment.

(2) Contracts must be written in language that can be easily understood by all parties and printed or typed in easily readable type size and style.

~~((2))~~ (3) Every prearrangement funeral service contract must include the following information:

(a) The name of the purchaser and the beneficiary of the contract;

(b) A description of the services and merchandise to be provided~~((, if specific merchandise and services are to be fur-~~

nished, and a statement clearly setting forth whether the purchase price fully pays for such services and merchandise or if the purchase price is to be applied toward the cost of such services and merchandise when they are provided;

~~(e) The total purchase price to be paid under the contract and the manner and terms which will govern payment;~~

~~(d) That all funds placed in trust plus net accruals are subject to refund;~~

~~(3))~~;

(c) A statement that if specific merchandise and services are not available, merchandise and services of equal or better value will be furnished;

(d) A statement clearly setting forth whether the purchase price fully pays for such services and merchandise or if the purchase price is to be applied toward the cost of such services and merchandise when they are provided;

(e) The total purchase price to be paid under the contract and the manner and terms which will govern payment;

(f) If funded by a trust, that all funds placed in trust plus net accruals are subject to refund; and

(g) If funded by insurance that the amounts paid for by insurance may not be refundable.

(4) Such contract shall be dated and be executed by the purchaser and by the funeral establishment through its owner, officer or managing agent.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-49-168 Trust fund depository agreement requirements. (1) Each prearrangement funeral trust shall enter into an agreement with one or more depositories in which the responsibilities of the depository are set forth. The agreement shall contain language which:

(a) Sets forth the terms and conditions under which deposits and withdrawals are made;

(b) States that instruments of deposit shall be an insured account in a public depository or shall be invested in ~~((instruments issued or insured by an agency of the federal government))~~ accordance with the provisions of RCW 11.100.020 and sets forth the conditions for termination and transfer of the prearrangement trust fund depository agreement.

(2) Prearrangement trust fund depository agreements are an integral part of the prearrangement funeral service contract agreement and shall be approved by the board prior to use. Amendments to or changes in the agreement shall be filed with the board prior to incorporation. The board shall be advised prior to termination of any depository agreement.

AMENDATORY SECTION (Amending WSR 07-03-027, filed 1/5/07, effective 2/5/07)

WAC 308-49-170 Annual statement requirements.

(1) Each funeral establishment registered to sell funeral prearrangement contracts must file ~~((with the board annually, ninety days after the end of its fiscal year;))~~ a statement of its ~~((financial condition;))~~ transactions and affairs for the preceding fiscal year. The statement is due to the board ninety days after the end of its fiscal year.

~~(2) ((The statement shall include a balance sheet and a profit and loss statement for the preceding fiscal year and/or other such fiscal documents as the board may require.~~

~~(3))~~ The funeral establishment shall list any changes in its officers, directors, managers or partners or any change in ownership greater than ten percent which have occurred in the preceding fiscal year.

~~((4))~~ (3) With respect to each prearrangement funeral service contract trust fund, the following information must be provided:

(a) The name of ~~((the depository))~~ all trust depositories and the account numbers;

(b) ~~((The number of outstanding contracts at the beginning of the fiscal year;~~

~~(e) The total amount paid in by the holders of such contracts pertinent to the trust fund;~~

~~(d) The total amount deposited in the trust account;~~

~~(e))~~ Third-party verification of all prearrangement trust assets;

(c) The total amount deposited in the trust account during the fiscal year;

(d) The number of new contracts ((issued)) and the contract amount sold during the fiscal year;

~~((f) The amount paid in on such new contracts and the amount deposited in the trust fund for such contracts;~~

~~(g))~~ (e) The total amount received for contracts during the fiscal year;

(f) The number of ((withdrawals)) contracts withdrawn from trust and amounts withdrawn from the trust due to contract cancellations and/or instances where the funeral merchandise and services covered by prearrangement contracts have been furnished and delivered. Withdrawals will include principal and earnings;

~~((h))~~ (g) The number of outstanding contracts as of the end of the fiscal year and the amount being held in trust for such contracts.

~~((5))~~ (4) The annual report form must include a ~~((year-end statement from the depository as to))~~ copy of the depository(ies) statement(s) to verify the amount of money held in funeral prearrangement trust ~~((as of the reporting date))~~ as well as the monthly deposit and withdrawal activity during the fiscal year.

(5) If the funeral establishment sells funeral prearrangement contracts funded with insurance that guarantees the final price of merchandise and services, the funeral establishment will:

(a) Report the number of insurance funded contracts sold during the fiscal year;

(b) Report the total number of insurance funded contracts;

(c) Report the total current face amount of all outstanding insurance funded contracts at the end of the fiscal year; and

(d) Provide a statement from the insurance provider(s) to verify the total face amount of all active insurance policies at the end of the fiscal year.

NEW SECTION**WAC 308-49-175 Trust fund deposit requirements.**

All payments received must be deposited directly into the appropriate trust fund and may not be offset by the amounts due from the trust prior to deposit. Such deposits must be made on or before the 20th day of the month following receipt of each payment due.

NEW SECTION

WAC 308-49-185 Inability to provide method of disposition. If human remains do not meet the reduction facility criteria for the method of disposition specified on a prearrangement funeral service contract, an alternate method of disposition shall be determined by the person(s) having the right to direct disposition per RCW 68.50.160.

NEW SECTION**WAC 308-49-190 Changing funeral establishments.**

Authorizing agents or persons having the right to direct disposition may change funeral establishments without conflict to the "place and method of disposition," as defined in RCW 68.50.160 (1) and (2). Licensees must permit the release of human remains to another funeral establishment if requested by the authorizing agent or person(s) having the right to direct disposition, even when a prearrangement contract exists.

Prearrangement contract trust or insurance funds must be made available to the funeral establishment designated by the authorizing agent.

AMENDATORY SECTION (Amending WSR 90-17-148, filed 8/22/90, effective 9/22/90)

WAC 308-49-200 Telephone solicitation. (1) The use of telephones for solicitation of prearrangements is prevalent. This form of communication offers unique benefits, but entails special risks and poses potential for abuse. The board finds that any impropriety in telephone solicitation is a matter vitally affecting the public interest. For the general welfare of the public and in order to protect the integrity of the funeral industry, the use of telephones in solicitation of prearrangements must be defined by the board.

(2) Definitions:

(a) "Telephone solicitor" means any person who engages in telephone solicitation on behalf of a holder of an establishment license.

(b) "Telephone solicitation" means an unsolicited telephone call to a person and conversation for the purpose of inducing the person to make funeral prearrangements made without previous invitation, expressed or implied, by the person called.

(3) Time limits:

(a) No licensee may knowingly cause a telephone solicitation to be made to any person more often than once in every six months.

(b) A telephone solicitor shall not place calls which will be received before 8:00 a.m. or after 9:00 p.m.

(4) Unfair/deceptive practices. A telephone solicitor may not engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

(5) Identification. Within the first thirty seconds of the telephone call, a telephone solicitor or salesperson shall:

(a) Identify (~~(himself or herself)~~) themselves, the company on whose behalf the solicitation is being made, the property, goods, or services being represented; and

(b) Terminate the telephone call within ten seconds if the purchaser indicates (~~(he or she does)~~) they do not wish to continue the conversation.

(6) Termination of contact. If at any time during the telephone contact, the purchaser states or indicates that (~~(he or she does)~~) they do not wish to be called again by the telephone solicitor or wants to have (~~(his or her)~~) their name and individual telephone number removed from the telephone lists used by the telephone solicitor, the telephone solicitor shall not make any additional telephone solicitation of the called party at that telephone number within a period of at least one year.

(7) Enforcement. In the event that the board discerns a pattern of violation of these standards the board may act against the registrant's prearrangement registration as provided by chapter 18.39 RCW.

Chapter 308-50A WAC**CEMETERIES—ENDOWMENT CARE FUNDS**NEW SECTION

WAC 308-50A-005 Cemetery endowment care funds. Any cemetery authority not exempt under chapter 68.40 RCW shall establish, maintain, and operate an inviolable endowment care fund. Endowment care, special care, and other cemetery authorities' endowment care funds may be commingled for investment and the income therefrom shall be divided between the funds in the proportion that each contributed to the sum invested. The funds shall be held in the name of the trustees appointed by the cemetery authority with the words "endowment care fund" being a part of the name.

NEW SECTION

WAC 308-50A-007 Use and care of endowment care funds. Endowment care funds shall not be used for any purpose other than to provide, through income only, for the endowment care stipulated in the instrument by which the fund was established.

Endowment care funds shall be used solely for the general care, maintenance, and embellishment of the cemetery, and shall be applied in such manner as the cemetery authority may from time to time determine to be for the best interest of the cemetery.

Only income and not principle from the endowment care funds may be used for the above described cemetery care.

Endowment care funds shall be kept separate and distinct from all assets of the cemetery authority. Endowment care principal shall remain inviolable and may not be reduced in any way not found within chapter 11.100 RCW.

NEW SECTION

WAC 308-50A-010 Definitions. For the purposes of this chapter, the following terms will be construed as follows:

- (1) **"Board"** means the funeral and cemetery board.
- (2) **"Capital gains"** means an increase in principal and is excluded from ordinary income and net ordinary income.
- (3) **"Cemetery authority"** means an entity that has obtained a certificate of authority to operate a cemetery from the funeral and cemetery board.
- (4) **"Endowment care cemetery"** means a cemetery required to establish an endowment care fund in accordance with chapter 68.40 RCW.
- (5) **"Fiduciary responsibility"** means the trustee(s) will manage the endowment care fund in accordance with RCW 11.100.020.
- (6) **"Gross sales price,"** in determining "ten percent of the gross sales price" pursuant to RCW 68.40.010, gross sales price shall not include the endowment care fund portion. Endowment care shall be added to the gross sales price and separately identified as endowment care on any contract.
For example: Grave gross sales price - \$100.00. Endowment care requirement - \$10.00. Total contract price - \$110.00.
- (7) **"Income"** means ordinary income, that is, interest, dividends, rents and other amounts received by the fund as current returns on investments, but excludes realized or unrealized capital gains or losses.
- (8) **"Net ordinary income"** means the ordinary income of the fund reduced by the expenses of operating the fund.
- (9) **"Trustee(s)"** means the bank, trust company or persons appointed by the cemetery authority or association of lot owners to hold fiduciary responsibility in managing the endowment care fund in accordance with chapter 68.44 RCW and subject to the direction of the cemetery authority.

NEW SECTION

WAC 308-50A-040 Records of endowment care funds. Any cemetery authority maintaining an endowment care fund shall maintain a current accounting system in accordance with generally accepted accounting principles. The system shall track sales, receipts, and disbursements and include the following:

- (1) An individual contract or agreement with each individual purchasing a right of interment with reference numbering.
- (2) A record of:
 - (a) Payments received and the amount due or paid to the endowment care fund;
 - (b) Reconciliation of payments to and from the fund; and
 - (c) All supporting bank and investment statements.
- (3) All records required to be maintained pursuant to this rule and Title 68 RCW, whether maintained manually or by computer, shall:
 - (a) Be retained and available for inspection for a period of seven years; and
 - (b) Be understandable to the cemetery board examiner or other persons reasonably having cause to access them.

NEW SECTION

WAC 308-50A-050 Endowment care fund contribution for scattering, or additional rights of interment, entombment or inurnment. A cemetery authority not exempt per RCW 68.05.400 must make a deposit to the endowment care fund, for scattering, or additional rights of interment, entombment or inurnment, as required in RCW 68.40.010.

NEW SECTION

WAC 308-50A-060 Computing income from improved commercial or real estate. In determining the trust fund income for the purpose of RCW 68.44.020 and 68.44.170, an allowance for depreciation on the improved real estate will be used as a determining factor in computing fund income. The cemetery authority must document how depreciation is determined.

NEW SECTION

WAC 308-50A-070 Trust fund deposit requirements. All payments received must be deposited directly into the appropriate trust fund and may not be offset by amounts due from the trust prior to deposit. Such deposits must be made on or before the 20th day of the month following receipt of each payment due.

Chapter 308-50B WAC**CEMETERIES—ENDOWMENT CARE TOTAL RETURN DISTRIBUTION**NEW SECTION

WAC 308-50B-010 Definitions. For the purposes of this chapter, the following terms will be construed as follows:

- (1) **"Average fair market value"** means the average of the fair market values of assets held by the endowment care fund on the first day of the current fiscal year and the first day of each of the two preceding fiscal years, or the average of the fair market value for the entire term of the fund if there are less than two preceding years.
- (2) **"Board"** means the funeral and cemetery board.
- (3) **"Cemetery authority"** means an entity that has obtained a certificate of authority to operate a cemetery from the funeral and cemetery board.
- (4) **"Endowment care cemetery"** means a cemetery required to establish an endowment care fund in accordance with chapter 68.40 RCW.
- (5) **"Extraordinary distributions"** means distributions from the endowment care fund pursuant to written consent of the board.
- (6) **"Fair market value"** means the fair market value of the assets held by the fund, reduced by all known noncontingent liabilities.
 - (a) The fair market value of real estate will be established by the county assessor's valuation on the first day of the current fiscal year.

(b) The fair market value of fractional ownership interests in real estate will be determined by generally accepted valuation methods.

(c) The fair market value of the endowment care fund assets that are not publicly traded on a stock or other regulated securities exchange shall be determined by written valuation certified by a qualified independent public appraiser or qualified independent certified public accountant not affiliated with the cemetery authority or its principals within twelve months of the first day of the fiscal year. If the valuation is not provided, the asset(s) will be assigned a zero value for the purpose of determining fair market value.

(7) "Fiduciary responsibility" means the trustee(s) will manage the endowment care fund in accordance with RCW 11.100.020.

NEW SECTION

WAC 308-50B-020 Application for total return distribution. (1) An application for implementation of the total return distribution method shall be submitted at least sixty days prior to the effective date of the election to use total return. The cemetery authority shall provide the board with the following:

(a) A written investment and distribution policy in which future distributions from the endowment care fund will be total return distribution amounts rather than net ordinary income distribution amounts. The investment goals shall be to achieve principal growth through investments including, but not limited to, equity investments, as well as achieve current income through investments including, but not limited to, income investments.

(b) An amended endowment care trust agreement to clearly show intent to use the total return distribution method.

(c) A written document establishing the average fair market value signed by the cemetery authority and/or trustee(s), and supporting documents.

(d) Completed application form indicating the total return percentage and signed by the cemetery authority.

(2) The application shall be considered approved unless the cemetery authority or trustee is notified otherwise by the board within thirty days of receipt. Such notification shall contain details of the information needed to remedy any deficiencies in the application.

(3) The maximum total return percentage for the first year will be four percent. The cemetery authority or trustee may submit a written request to the board to modify the total return percentage twelve months after implementation of the total return distribution method.

(4) If the cemetery authority or trustee alters the total return percentage, the cemetery authority or trustee shall send written notice to the board. This notification shall be made before the first distribution is taken based on the new total return percentage and shall contain the revised total return percentage and the reason for the revision.

(5) The trustee shall distribute income to the cemetery authority at least annually or in more frequent installments agreed to by the trustee and the cemetery authority.

(6) A cemetery authority that converts the endowment care fund to a total return fund may elect to reconvert the fund

to a net ordinary income fund by submitting written documentation to the board in support of the reconversion at least sixty days before the proposed effective date of the reconversion, including a copy of the trust agreement, notification on the proposed effective date of the reconversion, and any additional information required by the board.

(7) Unless an application and required documents for conversion to the total return distribution method have been received and approved by the board, a cemetery authority or trustee(s) may distribute only the net ordinary income from the endowment care fund for the general care, maintenance, and embellishment of the cemetery.

NEW SECTION

WAC 308-50B-030 Calculation of the average fair market value. The cemetery authority or trustee shall calculate the average fair market value of the fund at the beginning of each fiscal year. Appraisal methods and/or sources utilized to determine fair market value to establish the initial value must remain the same in each reporting year.

(1) When calculating the average fair market value, if assets have been added to the fund during the years used to determine the average, the amount of each addition is added to all years in which such addition was not included. If extraordinary distributions were taken during any of the years used to determine the average, the amount of each distribution is subtracted from all years in which the distribution was not included.

(2) The cemetery authority or trustee shall exclude from the fair market value calculations any asset for which the fair market value cannot be established.

(3) The cemetery authority or trustee shall use the fair market value to calculate the average fair market value.

NEW SECTION

WAC 308-50B-040 Limitation of total return distribution. (1) The board may take corrective measures including reducing the total return percentage under one or more of the following circumstances:

(a) If the average fair market value of the endowment care fund declines by ten percent or more over a two-year period;

(b) The fair market value of the fund at the beginning of a fiscal year is less than eighty percent of the fair market value of the fund the first day of the fiscal year when the endowment care fund started making distributions based on the total return distribution method; or

(c) There is an uncorrected endowment care deficiency as determined by the board's audit of the endowment care funds.

(2) The board may evaluate the endowment care fund conditions and choose not to impose corrective measures if it finds that:

(a) The reasons are due to unusual or temporary factors not within the control of the cemetery authority or the trustee and which could not have been reasonably anticipated;

(b) The current investment policy of the fund is reasonably designed to protect the fund from further declines in fair market value; or

(c) The exception appears to be both necessary and appropriate for the continued protection of the endowment care fund.

(3) The cemetery authority or trustee(s) shall not utilize the total return distribution method for part of the endowment care assets and concurrently distribute net income for part of the endowment care assets. Endowment care distributions may only be taken as net ordinary income or the total return distribution method.

NEW SECTION

WAC 308-50B-050 Fees and taxes. (1) In the event that the fees paid by the endowment care fund exceed one percent of the average fair market value, the amount in excess of one percent shall be paid from the distribution.

(2) Taxes may be paid from the corpus.

NEW SECTION

WAC 308-50B-060 Annual reporting requirements for total return distribution method. The cemetery authority will provide the board with a report that includes the average fair market value used to determine distribution for the following year and maintain a record of the fair market value each year while using the total return distribution method.

As part of the cemetery endowment care annual report required by RCW 68.05.180 and 68.05.235, cemetery authorities approved to use the total return distribution method must file an addendum to the annual report which details the following:

- (1) The asset allocation;
- (2) The annual distribution to the cemetery authority;
- (3) Any changes to the investment and distribution policy;
- (4) Calculation of the average fair market value to determine the current year's distribution and supporting documents; and
- (5) Any other information the board deems pertinent.

Chapter 308-51B WAC

CEMETERIES PREARRANGEMENT CONTRACTS

NEW SECTION

WAC 308-51B-005 Cemetery prearrangement trust funds. Any cemetery authority selling by prearrangement contracts any merchandise or services shall establish and maintain one or more prearrangement trust funds for the benefit of beneficiaries of prearrangement contracts.

NEW SECTION

WAC 308-51B-010 Definitions. All definitions of chapter 68.46 RCW apply to this chapter. In addition, the following definition applies:

"Direct cost" for the purpose of chapter 68.46 RCW, direct cost includes actual labor cost and other costs associated with delivery of the service. For example: Direct cost of providing an opening and closing may include labor, materi-

als, fuel, equipment maintenance, and a share of overhead including benefits and insurance.

NEW SECTION

WAC 308-51B-020 Itemization of charges. In addition to all other requirements of the law relating to consumer contracts, cemetery prearrangement contracts must have:

- (1) A specific itemization of charges and descriptions for each merchandise or service to be furnished or delivered.
- (2) An itemization of services to be performed on delivered merchandise such as marker installation and care.
- (3) An itemization of charges and descriptions for each grave niche or crypt sold with endowment care listed separately.

NEW SECTION

WAC 308-51B-025 Trust fund deposit requirements. All payments received must be deposited directly into the appropriate trust fund and may not be offset by amounts due from the trust prior to deposit. Such deposits must be made on or before the 20th day of the month following receipt of each payment due.

NEW SECTION

WAC 308-51B-030 Form of delivery. All cemetery prearrangement contracts must state on the contract what form or forms of delivery of merchandise will constitute "delivery" to satisfy the requirements of RCW 68.46.050.

NEW SECTION

WAC 308-51B-040 Performance of services. Prearrangement services, including shipment and installation of cemetery prearrangement merchandise, shall not be deemed to have been furnished within the meaning of RCW 68.46.050(1) until performance of such services has actually occurred.

NEW SECTION

WAC 308-51B-050 Determination of delivery. Cemetery prearrangement merchandise and services will be delivered within the meaning of RCW 68.46.050(1) when:

- (1) Actual delivery of the merchandise is made to the contract beneficiary;
- (2) Delivery of the merchandise is made to the cemetery authority for the contract beneficiary and the merchandise is permanently affixed to real property, columbarium or mausoleum; or
- (3) Delivery of the merchandise to the cemetery authority for the contract beneficiary with the storage provided by the cemetery authority, provided:
 - (a) That fifty percent of the service charge of the installation and other services to be performed upon the merchandise is maintained in the prearrangement trust fund; and
 - (b) An insurance provision is maintained when merchandise is stored in a building or on cemetery grounds.

(4) The cemetery authority has paid its supplier for prearrangement merchandise, and the supplier has caused the merchandise to be manufactured and stored, and has caused title to the merchandise to be transferred to the contract beneficiary, and has agreed to ship the merchandise upon his request or the request of the cemetery authority; provided:

(a) That fifty percent of the service charge of delivery, installation and other costs are maintained in the prearrangement trust fund by the cemetery authority. The delivery and installation cost must be itemized on the prearrangement contract, in accordance with WAC 308-51B-020.

(b) This subsection will apply to the manufacture and storage of merchandise such as, but not limited to, vaults, liners, urns and marker bases.

NEW SECTION

WAC 308-51B-060 Suppliers. No person, firm or corporation will be deemed a supplier for purposes of this chapter, unless it:

(1) Permanently and unalterably identifies all merchandise with the name of the contract beneficiary;

(2) Submits, upon request of the board, a report of all merchandise which has been purchased through a Washington cemetery authority and has been placed in storage;

(3) Permits the board or its designee, at any time, to examine stored merchandise which was purchased through a Washington cemetery authority and to examine any document pertaining thereto;

(4) Submits evidence of a bond ensuring the existing and good title of any merchandise due any contract beneficiary purchased through a Washington cemetery authority; and

(5) Submits evidence ensuring that all merchandise purchased through a Washington cemetery authority and being stored by the supplier is insured for casualty, theft or other loss.

Subsection (1) of this section will not apply to merchandise that is manufactured and stored without being permanently labeled or engraved with the beneficiaries' name. Suppliers must maintain an inventory equal to the amount sold.

NEW SECTION

WAC 308-51B-070 Securities for loans. In any instance where a prearrangement contract containing undelivered merchandise or services is sold, pledged, or otherwise encumbered as security for a loan by cemetery authority, the cemetery authority shall pay into the prearrangement trust fund fifty percent of the total sale price of the prearrangement contract within twenty days of receipt of payment of the proceeds from the sale or loan.

NEW SECTION

WAC 308-51B-080 Development plan for unconstructed, undeveloped property. (1) Any cemetery authority selling undeveloped graves, unconstructed crypts or niches in accordance with chapter 68.46 RCW must make available to the purchaser a statement of the estimated completion date of the development or construction at the time the prearrangement contract is signed.

(2) The estimated completion date must also:

(a) Be submitted to the cemetery board annually with the financial reports required by RCW 68.46.090.

(b) Be made available to holders of prearrangement contracts affected by the development or construction in the offices of the cemetery authority.

(3) A cemetery authority must maintain an equivalent inventory of constructed crypts, niches and developed graves, equal to ten percent of the unconstructed crypts, niches and undeveloped graves sold through prearrangement contracts. The equivalent inventory must be located within the cemetery or an adjacent cemetery under common ownership.

(4) Trust fund deposits required for the prearrangement contract sales of undeveloped property, will be in accordance with RCW 68.46.030.

NEW SECTION

WAC 308-51B-090 Records of cemetery prearrangement trust funds. Any cemetery authority maintaining a prearrangement trust fund shall maintain a current accounting system in accordance with generally accepted accounting principles. The system shall track sales, receipts and disbursements, and include the following:

(1) An individual contract or agreement with each individual establishing a prearrangement trust agreement.

(2) A record of payments received and the amount due or paid to the prearrangement trust fund.

(3) Reconciliation of payments to and from the fund.

(4) All supporting bank and investment statements.

(5) Documentation to verify all other assets of the prearrangement trust.

(6) All records required to be maintained pursuant to this rule and Title 68 RCW, whether maintained manually or by computer, shall:

(a) Be retained and available for inspection for a period of seven years.

(b) Be understandable to the cemetery board examiner or other persons reasonably having cause to access them.

NEW SECTION

WAC 308-51B-100 Qualifications of applicant for cemetery prearrangement sales license. To qualify as an applicant for a prearrangement sales license as set forth in RCW 68.05.155 and 68.46.150, applicant must hold a valid and unsuspended certificate of authority to operate a cemetery issued by the state funeral and cemetery board.

NEW SECTION

WAC 308-51B-200 Telephone solicitation. (1) The use of telephones for solicitation of prearrangements is prevalent. This form of communication offers unique benefits, but entails special risk and poses potential for abuse. The board finds that any impropriety in telephone solicitation is a matter vitally affecting the public interest. For the general welfare of the public and in order to protect the integrity of the cemetery industry, the use of telephones in solicitation of prearrangements must be defined by the board.

(2) Definitions:

(a) "Telephone solicitation" means an unsolicited telephone call to a person and conversation for the purpose of inducing the person to make cemetery prearrangements made without previous invitation, expressed or implied, by the person called.

(b) "Telephone solicitor" means any person who engages in telephone solicitation on behalf of a holder of a certificate of authority to operate.

(3) Time limits:

(a) No licensee may knowingly cause a telephone solicitation to be made to any person more often than once in every six months.

(b) A telephone solicitor shall not place calls which will be received before 8:00 a.m. or after 9:00 p.m.

(4) Unfair/deceptive practices. A telephone solicitor may not engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

(5) Identification. Within the first thirty seconds of the telephone call, a telephone solicitor or salesperson shall:

(a) Identify themselves, the company on whose behalf the solicitation is being made, the property, goods, or services being represented; and

(b) Terminate the telephone call within ten seconds if the purchaser indicates they do not wish to continue the conversation.

(6) Termination of contact. If at any time during the telephone contact, the purchaser states or indicates that they do not wish to be called again by the telephone solicitor or wants to have their name and individual telephone number removed from the telephone lists used by the telephone solicitor, the telephone solicitor shall not make any additional telephone solicitation of the called party at that telephone number within a period of at least one year.

(7) Enforcement. In the event that the board discerns a pattern of violation of these standards the board may act against the licensee's prearrangement license as provided by Title 68 RCW.

NEW SECTION

WAC 308-51B-250 Hybrid unit. A hybrid unit shall mean any combination "casket-vault" that is designed, intended, or represented to function as a substitute for a casket and/or a vault, or intended to serve the same purpose as a casket or a vault or in lieu thereof.

NEW SECTION

WAC 308-51B-260 Hybrid unit—Disclosure of support or service items. Hybrid units specified as cemetery merchandise or services in cemetery prearrangement contracts must be itemized, and must disclose and describe all items of support or services which are required or may be required for the future or intended use of hybrid units. "Support or service" as used herein means any function, activity, or object, and their availability, required or that may be required to meet a buyer's expectations for necessary cemetery merchandise or services and/or funeral merchandise or services. Whether items of support or services are included in the immediate purchase price or are reserved for future sale at

the time of need, must be clearly set forth in the cemetery prearrangement contract, and in all advertising or representations pertaining to preneed or prearrangement contract sales of hybrid units.

Chapter 308-52A WAC

ABANDONED CEMETERIES

NEW SECTION

WAC 308-52A-030 Allowing burials in an abandoned cemetery. The definitions found in chapters 68.04 and 68.60 RCW apply to this section.

(1) Human remains or reduced human remains may be buried in an abandoned cemetery under the following conditions:

(a) Ownership of the plot, right of interment or vested right of placement can be clearly established pursuant to chapter 68.32 RCW;

(b) The person(s) having the right to control disposition per RCW 68.50.160 has documentation issued by the cemetery authority prior to the date of abandonment establishing ownership of the plot, right of interment or vested right of placement for the human remains to be buried; or

(c) When a court of competent jurisdiction finds that there is sufficient evidence of ownership, right of interment or vested right of placement and issues a court order.

(2) The person(s) having the right to control disposition must follow the requirements found in RCW 70.58.230 through 70.58.260 prior to the burial of human remains.

(3) Human remains may be removed from an abandoned cemetery with the permission of the superior court of the county where the cemetery is situated and a disinterment permit per RCW 70.58.230.

(4) The person(s) having the right to control disposition may place a grave marker on the grave of human remains buried in an abandoned cemetery and may do all things commonly allowed on dedicated cemetery property.

(5) The person(s) having the right to control disposition must provide a record of the burial to the department of archaeology and historic preservation.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- | | |
|---------------|--|
| WAC 98-08-001 | Model rules of procedure. |
| WAC 98-08-005 | Brief adjudicative proceedings—When they can be used. |
| WAC 98-08-015 | Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings. |

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 98-11-010 Financial responsibility requirements for nonendowment care cemeteries.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 98-12-020 Improved commercial or real estate income.
 WAC 98-12-030 Definitions.
 WAC 98-12-040 Records of endowment care funds.
 WAC 98-12-050 Endowment care trust fund contribution for additional rights of interment, entombment or inurnment.
 WAC 98-12-051 Application for total return distribution.
 WAC 98-12-052 Calculation of the average fair market value.
 WAC 98-12-053 Limitation of total return distribution.
 WAC 98-12-054 Fees and taxes.
 WAC 98-12-055 Annual reporting requirements for total return distribution method.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 98-14-010 Definitions.
 WAC 98-14-020 Itemization of charges.
 WAC 98-14-030 Form of delivery.
 WAC 98-14-040 Performance of services.
 WAC 98-14-050 Determination of delivery.
 WAC 98-14-060 Suppliers.
 WAC 98-14-070 Securities for loans.
 WAC 98-14-080 Development plan for unconstructed, undeveloped property.
 WAC 98-14-090 Records of prearrangement trust funds.
 WAC 98-14-100 Qualifications of applicant for prearrangement sales license.
 WAC 98-14-200 Telephone solicitation.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 98-15-010 Crematory inspections.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 98-16-010 Hybrid unit.

WAC 98-16-030 Disclosure of support or service items.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 98-20-020 Definitions—Sale or transfer of ownership or control of any cemetery.
 WAC 98-20-030 Allowing burials in an abandoned cemetery.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 98-60-010 Definitions.
 WAC 98-60-020 Permits and endorsements.
 WAC 98-60-030 Compliance with all laws.
 WAC 98-60-040 Records and documentation.
 WAC 98-60-050 Permits and endorsements—Terms—Fees.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 98-70-010 Fees.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 98-80-010 Definitions.
 WAC 98-80-020 Identification of human remains.
 WAC 98-80-030 Holding human remains for cremation.
 WAC 98-80-040 Cremation of human remains.
 WAC 98-80-050 Processing of cremated human remains.
 WAC 98-80-060 Packaging and storage of cremated human remains.
 WAC 98-80-070 Disposition of cremated human remains.

WSR 20-09-034

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed April 7, 2020, 11:13 a.m., effective May 8, 2020]

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

Purpose: Updating WAC 458-61A-113 to reflect the real estate excise tax exemption for sales of standing timber tax-

able under RCW 82.04.260 (12)(d), provided in SHB 1513 (2007), codified in RCW 82.45.195.

Citation of Rules Affected by this Order: Amending WAC 458-61A-113 Timber, standing.

Statutory Authority for Adoption: RCW 82.45.150, 82.32.300, and 82.01.060(2).

Adopted under notice filed as WSR 20-03-106 on January 15, 2020.

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 0, Repealed 0.

Date Adopted: April 6, 2020.

Atif Aziz
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-23-093, filed 11/16/05, effective 12/17/05)

WAC 458-61A-113 Timber, standing. (1) The real estate excise tax applies to the sale of timber if the ownership of the timber is transferred while the timber is standing. The tax applies to the sale of standing timber whether the sale is accomplished by deed or by contract. See also chapters 84.33 RCW and 458-40 WAC for specific regulations and rules regarding the taxation of timber and forest land.

(2) The grantor's irrevocable agreement to sell timber and pass ownership to it as it is cut is a taxable transaction if the total amount of the sale is specified in the original contract.

(3) A contract to transfer the ownership of timber after it has been cut and removed from land by the grantee is not a taxable transaction.

(4) A contract between a timber owner and a harvester (~~when~~) under which the harvester provides the service of cutting the timber and transporting it to the mill is not subject to the real estate excise tax if the timber owner retains ownership of the timber until it is delivered to and purchased by the mill.

(5) Notwithstanding the above subsections, a sale of standing timber is exempt from real estate excise tax if the gross income from the sale is subject to business and occupation tax under RCW 82.04.260 (12)(d).

WSR 20-09-037

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Nursing Home Administrators)

[Filed April 7, 2020, 3:44 p.m., effective May 8, 2020]

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

Purpose: WAC 246-843-325 Temporary practice permit—Military spouse eligibility and issuance, the board is adopting a new section to chapter 246-843 WAC to establish the process and criteria for applicants who are military spouses or state-registered domestic partners to obtain temporary practice permits as nursing home administrators. The rule adopts secretary rules by reference and implements chapter 18.340 RCW regarding military spouses who move 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. The applicant must be credentialed in another state with substantially equivalent standards and meet other specific criteria.

This rule is necessary to establish a process and criteria in order to expedite the credentialing process for an applicant to receive a temporary practice permit. The temporary practice permit will allow approved applicants who are military spouses or state-registered domestic partners to practice in the full scope of their profession for up to one hundred eighty days pending issuance of permanent credentials. The rule also complies with chapter 18.340 RCW.

Citation of Rules Affected by this Order: New WAC 246-843-325.

Statutory Authority for Adoption: RCW 18.52.061 and 18.340.020.

Adopted under notice filed as WSR 20-01-077 on December 11, 2019.

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: January 24, 2020.

Ann B. Zell, Chair
Board of Nursing Home Administrators

NEW SECTION

WAC 246-843-325 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 nursing home administrators. The board adopts the procedural rules as adopted by the department of health in WAC 246-12-051.

WSR 20-09-040
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 7, 2020, 4:35 p.m., effective July 1, 2020]

Effective Date of Rule: July 1, 2020.

Purpose: This rule making corrects inadvertent errors in the rule language filed on December 10, 2019 (WSR 20-01-063). These changes are not substantive in nature: Corrects language in duties test for outside salespersons and corrects date in salary threshold phase-in schedule.

Citation of Rules Affected by this Order: Amending WAC 296-128-540 and 296-128-545.

Statutory Authority for Adoption: RCW 49.46.010 (3) (c).

Adopted under notice filed as WSR 20-04-078 on February 4, 2020.

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: April 7, 2020.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 20-01-063, filed 12/10/19, effective 7/1/20)

WAC 296-128-540 Outside salesperson. The term "individual employed in the capacity of outside salesperson" in RCW 49.46.010 (3)(c) shall mean any employee:

(1) Whose primary duty is:

(a) Making sales; including any sale, exchange, contract to sell, consignment for sale, shipment for sale or other disposition; or

(b) Obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer(~~;~~ or

~~(c) In demonstrating products or equipment for sale; or~~

~~(d) In the sale of services and performance of the service sold when the compensation to the employee is computed on a commission basis; and~~

~~(2) Whose hours of work of a nature other than that described in subsection (1)(a), (b), (c) and (d) of this section do not exceed 20 percent of the hours worked in the work week by nonexempt employees of the employer. Provided, that work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall not be regarded as nonexempt work;~~

~~(3)); and~~

(2) Who is customarily and regularly engaged away from the employer's place or places of business in performing such primary duty; and

((4)) (3) Who is compensated by the employer on a guaranteed salary, commission or fee basis and who is advised of ~~(the)~~ their employee status as an "outside salesperson." The requirements of WAC 296-128-545 do not apply to the outside salespersons described in this section.

AMENDATORY SECTION (Amending WSR 20-01-063, filed 12/10/19, effective 7/1/20)

WAC 296-128-545 Salary thresholds. To qualify as an exempt employee under this section, an employee must be compensated on a salary or fee basis, exclusive of board, lodging, or other facilities, as follows:

(1) Beginning July 1, 2020, and through December 31, 2020, an amount not less than 1.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek regardless of the size of the employer;

(2) Beginning January 1, 2021, and through December 31, 2021:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 1.5 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 1.75 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(3) Beginning January 1, 2022, and through December 31, 2022, an amount not less than 1.75 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek regardless of the size of the employer;

(4) Beginning January 1, 2023, and through December 31, 2023:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 1.75 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 2.0 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(5) Beginning January 1, 2024, and through December 31, 2024, an amount not less than 2.0 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek regardless of the size of the employer(~~;~~);

(6) Beginning January 1, 2025, and through December 31, 2025:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 2.0 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 2.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(7) Beginning January 1, 2026, and through December 31, 2026, an amount not less than 2.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek regardless of the size of the employer(-);

(8) Beginning January 1, 2027, and through December 31, 2027:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 2.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 2.5 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(9) Beginning January 1, ((2026)) 2028, and each following year, an amount not less than 2.5 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek regardless of the size of the employer(-);

Table 2
Illustration of Salary Threshold As Multipliers of Minimum Wage

Effective Date	Employer Size	
	1-50 Employees	51+ Employees
July 1, 2020	1.25x	1.25x
January 1, 2021	1.5x	1.75x
January 1, 2022	1.75x	1.75x
January 1, 2023	1.75x	2.0x
January 1, 2024	2.0x	2.0x
January 1, 2025	2.0x	2.25x
January 1, 2026	2.25x	2.25x
January 1, 2027	2.25x	2.5x
January 1, 2028	2.5x	2.5x

Table 2 is provided for illustrative purposes only.

(10) For the purposes of this section, the size of the employer is based solely on the number of Washington-based employees it employs at the time of the effective date for each subsection. Each Washington-based employee counts as an employee for the purposes of determining the size of the employer regardless of whether that employee works full-time or part-time. An employer classified as employing fewer than fifty employees under RCW 50A.10.030 (8)(c) may rely on that classification for purposes of determining the size of the employer under this section for the following calendar year.

WSR 20-09-044

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed April 8, 2020, 9:01 a.m., effective May 9, 2020]

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

Purpose: The department is amending WAC 388-424-0001 Citizenship and alien status—Definitions, and 388-424-0030 How does my alien status impact my eligibility for state-funded benefits under the food assistance program?, to update an obsolete WAC cross-reference that has the same effect as the previous cross-reference and correct typographical errors.

Citation of Rules Affected by this Order: Amending WAC 388-424-0001 and 388-424-0030.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, and 74.08A.120.

Adopted under notice filed as WSR 19-20-086 on September 30, 2019.

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 0.

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

Date Adopted: April 8, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-16-056, filed 7/29/11, effective 8/29/11)

WAC 388-424-0001 Citizenship and alien status—Definitions. For the purposes of determining an individual's citizenship and alien status for public assistance, the following definitions apply:

(1) **"Lawfully present"** are immigrants or noncitizens who have been inspected and admitted into the United States and not overstayed the period for which they were admitted, or have current permission from the U.S. Citizenship and Immigrant Services (CIS) to stay or live in the U.S.

(2) **"Qualified aliens"** are lawfully present immigrants defined in federal law as one of the following:

(a) Individuals lawfully admitted for permanent residence (LPRs).

(b) Individuals who are admitted to the U.S. as refugees under INA §207. The following individuals are treated the same as refugees in their eligibility for public assistance:

(i) Hmong or Highland Lao are members of a Hmong or Highland Laotian tribe which rendered military assistance to the U.S. during the Vietnam era (August 5, 1964 to May 7, 1975), and are "lawfully present" in the U.S. This category also includes the spouse (including unremarried widow or widower) or unmarried dependent child of such tribal members.

(ii) Victims of trafficking according to federal law are:

(A) Individuals who have been certified or approved as victims of trafficking by the federal office of refugee resettlement.

(B) Immediate family members of trafficking victims. Immediate family members are the spouse or child of a victim of any age and the parent or minor sibling if the victim is under twenty-one years old.

(iii) Special immigrants from Iraq and Afghanistan are individuals granted special immigrant status under INA §101(a)(27).

(c) Individuals who have been granted asylum under INA §208.

(d) Cuban/Haitian entrants. These are nationals of Cuba or Haiti who were paroled into the U.S. or given other special status.

(e) Abused spouses or children, parents of abused children, or children of abused spouses:

(i) When the alien no longer resides with the person who committed the abuse, and has one of the following:

(A) A pending or approved I-130 petition or application to immigrate as an immediate relative of a U.S. citizen or as the spouse or unmarried child under age twenty-one of a lawful permanent resident (LPR);

(B) A notice of "prima facie" approval of a pending self-petition under the violence against women act (VAWA); or

(C) Proof of a pending application for suspension of deportation or cancellation of removal under VAWA.

(ii) Children of an abused spouse do not need their own separate pending or approved petition, but are included in their parent's petition if it was filed before they turned twenty-one years old. Children of abused persons who meet the conditions above retain their "qualified alien" status even after they turn twenty-one years old.

(f) Individuals who have been granted parole into the U.S. for at least a period of one year (or indefinitely) under INA §212(d)(5), including "public interest" parolees.

(g) ~~((Individual's))~~ Individuals granted withholding of deportation or removal under INA §243(h) or §241(b)(3).

(h) Individuals who were admitted to the U.S. as conditional entrants under INA §203(a)(7) prior to April 1, 1980.

(i) Amerasians who were born to U.S. citizen armed services members in Southeast Asia during the Vietnam War.

(3) ~~"((Nonqualified—Nonqualified))~~ **Nonqualified aliens** are noncitizens who are lawfully present in the U.S. and who are not included in the definition of qualified aliens in subsection (1) of this section. ~~((Nonqualified))~~ Nonqualified aliens include but are not limited to:

(a) Citizens of Marshall Islands, Micronesia or Palau;

(b) Immigrants paroled into the U.S. for less than one year;

(c) Immigrants granted temporary protected status; or

(d) Nonimmigrants who are allowed entry into the U.S. for a specific purpose usually for a limited time are also non-qualified. Examples include:

(i) Business visitors;

(ii) Students; and

(iii) Tourists.

(4) **"Undocumented aliens"** are noncitizens without a lawful immigration status as defined in subsections (2) or (3) of this section, and who:

(a) Entered the U.S. illegally; or

(b) Were lawfully admitted but whose status expired or was revoked per United States Citizenship and Immigration Services (USCIS).

(5) **"U.S. citizens"** are one of the following:

(a) ~~((Individual's))~~ Individuals born in the United States or its territories (Guam, Puerto Rico, and the U.S. Virgin Islands; also residents of the Northern Mariana Islands who elected to become U.S. citizens).

(b) American Indians born outside the U.S. without regard to immigration status or date of entry if:

(i) They were born in Canada and are fifty percent American Indian blood (but need not belong to a federally recognized tribe); or

(ii) They are members of a federally recognized Indian tribe or Alaskan Native village or corporation.

(c) Individuals who have become naturalized U.S. citizens.

(d) Individuals born abroad to at least one U.S. citizen parent depending on conditions at the time of their birth, per title 8, subchapter III, section 1401 of the United States Code.

(e) Individuals who turn eighteen years of age on or after February 27, 2001, automatically become U.S. citizens if the following conditions are met while the individual is under age eighteen per INA 320.

(i) The individual is granted lawful permanent resident (LPR) status;

(ii) At least one of the individual's parents is a U.S. citizen by birth or naturalization; and

(iii) The individual:

(A) Resides in the U.S. in the legal and physical custody of the citizen parent; or

(B) Was adopted according to the requirements of INA 101 and resides in the U.S. in the legal and physical custody of the citizen parent.

(f) Individuals who turned eighteen before February 27, 2001, would have automatically become a citizen if, while the individual was still under eighteen, he or she became a lawful permanent resident and both his or her parents naturalized. Such individuals also may have derived citizenship when only one parent naturalized, if the other parent was dead or a U.S. citizen by birth, or the individual's parents were separated and the naturalized parent had custody.

(6) **"U.S. nationals"** are persons who owe permanent allegiance to the U.S. and may enter and work in the U.S. without restriction. The following are the only persons classified as U.S. nationals:

(a) Persons born in American Samoa or Swain's Island after December 24, 1952; and

(b) Residents of the Northern Mariana Islands who did not elect to become U.S. citizens.

AMENDATORY SECTION (Amending WSR 12-18-024, filed 8/27/12, effective 9/27/12)

WAC 388-424-0030 How does my alien status impact my eligibility for state-funded benefits under the food assistance program? (1) If you are not a citizen and are not eligible for federally funded basic food benefits, you may be eligible for state-funded benefits under the food assistance program (FAP) if you are a legal immigrant. This means you must be one of the following:

(a) A "qualified alien" as defined in WAC 388-424-0001, who does not meet the eligibility requirements under WAC 388-424-0020 to receive federally funded basic food benefits; or

(b) A "nonqualified alien" as described in WAC 388-424-0001 who:

(i) Is not a nonimmigrant as described in WAC ((388-424-0001(d))) 388-424-0001(3)(d);

(ii) Intends to stay in the United States indefinitely; and

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

(2) If you are eligible for state-funded FAP, we calculate your benefits as described under WAC 388-400-0050.

WSR 20-09-064

PERMANENT RULES

DEPARTMENT OF COMMERCE

[Filed April 13, 2020, 7:45 a.m., effective May 14, 2020]

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

Purpose: The department is adding new WAC to implement the requirements of RCW 82.14.540(11).

Citation of Rules Affected by this Order: New WAC 365-240-010, 365-240-020, and 365-240-030.

Statutory Authority for Adoption: RCW 82.14.540(11).

Adopted under notice filed as WSR 20-01-148 on December 17, 2019.

Changes Other than Editing from Proposed to Adopted Version: Changes in WAC 365-240-030 clarifies when the report is due. The changes also clarify who can submit the report and how the preparer should be identified. Changes in this section also clarify how to report if an interlocal agreement is in place.

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 3, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 13, 2020.

Sarah Coggins
Rules Coordinator

Chapter 365-240 WAC

AFFORDABLE AND SUPPORTIVE HOUSING— LOCAL SALES AND USE TAX

NEW SECTION

WAC 365-240-010 Authority. This chapter is promulgated pursuant to the authority granted in RCW 82.14.540 requiring counties and cities that impose the local sales and use tax for affordable and supportive housing to report annually to the department of commerce on the collection and use of the revenue and for the department of commerce to adopt rules prescribing the content of those reports.

NEW SECTION

WAC 365-240-020 Authorized uses of tax revenue. Counties with populations over four hundred thousand and cities with populations over one hundred thousand may use tax revenue for:

(1) Acquiring, rehabilitating, or constructing affordable housing, which may include new units within an existing structure or facilities providing supportive housing services under RCW 71.24.385 (behavioral health organizations); or

(2) Operations and maintenance costs of new units of affordable or supportive housing.

Counties with populations under four hundred thousand and cities with populations under one hundred thousand population may use tax revenue for the activities outlined above, as well as to provide rental assistance to tenants that are at or below sixty percent of the median income of the county or city that is imposing the tax.

NEW SECTION

WAC 365-240-030 Annual report to the department of commerce. Jurisdictions must submit a report to the department by October 1st annually with the following information pertaining to the most recent fiscal year. Reports submitted by a lead jurisdiction or managing entity pursuant to an interlocal agreement must be accompanied by contract language designating the responsible entity for submitting annual reports and ensuring their accuracy.

The first report will be due October 1, 2020, and annually thereafter.

(1) General:

(a) All references made in this section to funds, funds pooled, or funds utilized or bonded against are in regard to

those derived from a jurisdiction's affordable and supportive housing sales and use tax distribution from the department of revenue for the corresponding fiscal year.

(b) An annual report submitted by a lead jurisdiction or managing entity pursuant to an interlocal agreement must be accompanied by agreed language designating it as the responsible party for report timeliness and accuracy.

(c) Information submitted by a lead jurisdiction or managing entity pursuant to an interlocal agreement must include the total combined revenue collection and program activities for all jurisdictions subject to the agreement. A separate report on revenue collection and program activities must be submitted for each jurisdiction choosing to additionally expend funds outside the agreement, if applicable.

(d) All reports submitted pursuant to this section must include contact information for the preparer.

(2) Revenue collection:

(a) Total affordable and supportive housing sales and use tax distribution for the reporting jurisdiction(s);

(b) Applicable affordable housing and supportive housing sales and use tax rate(s) for the reporting jurisdiction(s);

(c) If an interlocal agreement is in place, the total revenue utilized jointly pursuant to the agreement;

(d) If an interlocal agreement is in place, the total revenue utilized by jurisdiction(s) separately, not according to the terms of the agreement.

(3) Program activities:

(a) Total funds committed;

(b) Number, types, and status of projects supported with funds;

(c) Degree of leverage with other public and private funds;

(d) Total funds utilized for rent assistance; and

(e) Duration of affordability for projects supported with funds.

(4) Program outputs:

(a) Total funds committed for loans and grants;

(b) Total funds obligated to support bonding activities;

(c) Total funds committed for operations and maintenance of new units of affordable or supportive housing;

(d) Total number of households served with funds used for rent assistance; and

(e) Target populations served with funds.

WSR 20-09-077

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed April 14, 2020, 10:16 a.m., effective June 4, 2020]

Effective Date of Rule: June 4, 2020.

Purpose: These updates are being adopted for Washington state to remain in compliance with state (chapter 18.310 RCW) and federal rules under section 1124 to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act as modified by section 1473 of the Dodd-Frank Act.

These changes update the existing licensure period to one year to accommodate for 2019 legislative changes; modify existing rules to allow for the collection and transmission of Appraisal Management Company National Registry data

and fees to the Appraisal Subcommittee as required by Title XI, and adopt a new rule pertaining to standards of practice as required by the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

Citation of Rules Affected by this Order: New WAC 308-409-075 Standards of practice; and amending WAC 308-409-020 Application process to license as an appraisal management company, WAC 308-409-030 Licensure and renewal, and 308-409-050 Fees and charges.

Statutory Authority for Adoption: RCW 18.310.020 (1) and (11).

Adopted under notice filed as WSR 20-07-119 on March 18, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 3, Repealed 0; Federal Rules or Standards: New 1, 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 1, Amended 3, Repealed 0.

Date Adopted: April 14, 2020.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-21-061, filed 10/14/16, effective 11/14/16)

WAC 308-409-020 Application process to license as an appraisal management company. (1) An entity applying for licensure as an appraisal management company shall present to the department:

(a) A completed licensure application form that complies with RCW 18.310.060;

(b) Completed registration forms for the owner(s) of ten percent or more of the company and controlling persons, including a designated controlling person;

(c) Fingerprint background checks that are identified to the appraisal management company program, for owner(s) of ten percent or more of the company and controlling person(s);

(i) An application submitted without the required fingerprint background check is considered incomplete.

(ii) If a fingerprint submission is rejected, the owner or controlling person must follow the department's authorized vendor's procedures for resubmitting fingerprints within twenty-one calendar days of the date the department notifies the applicant.

(iii) Failure to follow the vendor's fingerprint procedures within twenty-one days may result in a suspension of the appraisal management company license until the vendor's fingerprint procedures are followed. The applicant will be

responsible for any fingerprinting fees due to the department's authorized vendor.

(iv) If the fingerprint submission is rejected, the applicant must pay a new fee for fingerprinting and background processing. After three failed submissions, the program may use other sources/methods to satisfy the background check requirement.

- (d) Proof of surety bond; and
- (e) Appropriate fees.

(2) A change in ownership or controlling person(s) of the appraisal management company will require the new owner(s) or controlling person(s) to submit owner or controlling person registration form(s) to the department together with fingerprint background check(s), that are identified to the appraisal management company program within fourteen business days of change.

(3) Appraisal management company applications for licensure and renewal must include:

(a) A certification under penalty of perjury to the department to include:

(i) Has the appraisal management company overseen a panel of sixteen or more licensed appraisers in Washington within one year immediately preceding application;

(ii) Has the appraisal management company overseen a panel of twenty-five or more licensed appraisers in more than one state within one year immediately preceding application;

(iii) Is the appraisal management company a federally regulated AMC.

(b) A report to the department providing the actual number of appraisers the appraisal management company has overseen on their panel within the one year immediately preceding the application; and

(c) A report to the department providing the number of appraisers on their appraisal management company panel that performed appraisals for covered transactions within one year immediately preceding the application. Covered transactions are any appraisals that were performed for consumer credit transactions secured by the consumer's principal dwelling unit.

AMENDATORY SECTION (Amending WSR 16-21-061, filed 10/14/16, effective 11/14/16)

WAC 308-409-030 Licensure and renewal. (1) ~~((Appraisal management companies must be licensed by January 1, 2012.~~

~~(2))~~ Each original and renewal license issued under chapter 18-310 RCW shall expire ~~((two))~~ one year~~((s))~~ from date of issue.

~~((3))~~ (2) To be renewed as an appraisal management company, the holder of a valid license shall submit an application to include the information required in WAC 308-409-020(3) and pay the prescribed fee to the director no earlier than one hundred twenty days prior to the expiration date.

~~((4))~~ (3) If a company fails to renew a license prior to its expiration and no more than one year has passed since the company last held a valid license, the company may obtain a renewed license by paying the renewal fee and late renewal penalty fee.

~~((5))~~ (4) The director shall cancel the license of any company whose renewal fee is not received within one year from the date of expiration. A company may obtain a new license by applying for original licensure as an appraisal management company.

AMENDATORY SECTION (Amending WSR 16-21-061, filed 10/14/16, effective 11/14/16)

WAC 308-409-050 Fees and charges. The following fees shall be paid under the provisions of chapter 18.310 RCW:

Title of Fee	Fee
Original licensure	\$(2,400.00)) <u>1,200.00</u>
Renewal	((1,200.00)) <u>600.00</u>
Late renewal ((penalty))	38.00
Duplicate license	30.00
Fingerprint processing	per vendor schedule*
<u>Appraisal management company national registry</u>	<u>25.00 per appraiser on the AMC panel who performed an appraisal in a covered transaction as defined in WAC 308-409-020 (2)(c) **</u>

*Fees for the category marked with an asterisk are determined by contract with an outside vendor.

**Fees are initial licensure and renewal fees for an appraisal management company national registry in an amount determined by the appraisal subcommittee to be submitted by the state. Title XI requires each state to submit a roster listing of licensed appraisal management companies to the appraisal subcommittee.

NEW SECTION

WAC 308-409-075 Standards of practice. The standard of practice governing real estate appraisal activities coordinated by appraisal management companies will be the edition of the *Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation* in effect on the date of the appraisal report. Appraisals coordinated by real estate appraisal management companies must comply with these standards of practice. A copy of the Uniform Standards of Professional Appraisal Practice is available for review and inspection at the office of the Real Estate Appraiser Unit Office, Olympia, Washington. The Uniform Standards of Professional Appraisal Practice is a copyright document. Copy of the full text may be obtained from the appraisal foundation at The Appraisal Foundation, P.O. Box 96734, Washington, DC 20090-6734.

WSR 20-09-091
PERMANENT RULES
COMMISSION ON

ASIAN PACIFIC AMERICAN AFFAIRS

[Filed April 15, 2020, 10:26 a.m., effective May 16, 2020]

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

Purpose: Proposed changes to sections within chapter 34-02 WAC are intended to streamline, revise, delete, or directly repeal outdated or incorrect information; update the name of the commission; update the commission's physical and mailing addresses; provide flexibility for the commission to change the date of its regular meetings; while continuing to comply with chapter 43.117 RCW.

Proposed changes to sections within chapter 34-04 WAC are intended to streamline; remove redundancy, revise or delete outdated or incorrect information, update according to current law; update the name of the commission; update terminology; provide flexibility for whom the commission may designate as its public records officer; provide instructions on how to obtain a form to request public records; update the commission's physical and mailing addresses; while continuing to comply with chapter 43.117 RCW.

Proposed changes include adding chapter 14.60 WAC relating to use of mobile devices, intended to update according to current law; and establish rules regarding state-owned and personally-owned mobile devices; stipends for use of personally owned devices; security, privacy and records management; management of devices; and employee responsibilities.

Citation of Rules Affected by this Order: Amending WAC 34-02-010 Organization and operation of the commission on Asian-American affairs, 34-02-020 Commission meetings, 34-02-030 Petitions for rule making action, 34-02-040 Communications with the commission, 34-04-010 Purpose, 34-04-020 Definitions, 34-04-030 Public records available, 34-04-040 Public records officer, 34-04-070 Requests for public records, 34-04-090 Exemptions, 34-04-120 Adoption of form, 14.60 Use of mobile devices, 14.60.10 Purpose, 14.60.20 Policy application, 14.60.30 State-owned mobile device, 14.60.40 personally-owned mobile device, 14.60.50 Stipends for use of personal devices, 14.60.60 Security, privacy and records management, 14.60.70 Agency management of mobile devices, and 14.60.80 Employee responsibilities.

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

Statutory Authority for Adoption: RCW 43.117.050.

Adopted under notice filed as WSR 02-02-003 [20-02-003] on December 18, 2019.

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

Number of Sections Adopted at 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 20, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 20, Repealed 0.

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

Date Adopted: April 2, 2020.

Toshiko Hasegawa
 Executive Director

AMENDATORY SECTION (Amending WSR 88-21-003, filed 10/6/88)

WAC 34-02-010 Organization and operation of the commission on (~~Asian-American~~) Asian Pacific American affairs. (1) The commission on (~~Asian-American~~) Asian Pacific American affairs, hereinafter referred to as the commission, is a commission in the office of the governor established by RCW 43.117.030. The commission exists to improve the well-being of (~~Asian-Pacific~~) Asian Pacific Americans by helping to (~~insure~~) ensure their participation in the fields of government, business and education, and to aid (~~Asian-Pacific~~) Asian Pacific Americans in obtaining governmental services in order to promote the health, safety and welfare of all residents of this state. The duties and responsibilities of the commission are more particularly described in chapter 43.117 RCW. The twelve members of the commission are appointed by the governor.

(2) All basic policy decisions are made by the commission at its regular and special meetings. To assist in policy formulation, and to otherwise assist in carrying out its various duties and responsibilities, the commission has an executive director, appointed by the governor based on commission recommendations, a staff hired by the executive director, and at least two standing committees comprised of commission members. The two mandatory committees are:

(a) The executive committee, which is responsible for reviewing major news releases and other information designed to increase the public's knowledge of the commission (~~(or Asian-Pacific Americans)~~), and for conducting certain commission business and for undertaking specific tasks delegated by the commission;

(b) The nominations committee, which is responsible for developing and implementing procedures by which to recommend commission and executive director appointees, and for such other tasks as may be delegated to it by the commission; and

Other committees may be formed at any time by (~~(the)~~) the commission for the purpose of addressing various issues affecting (~~Asian-Pacific~~) Asian Pacific Americans.

(3) The commission maintains a central administrative office at (~~1515 South Cherry~~) Capitol Court Building, 1110 Capitol Way South, Suite 220, Olympia, Washington(~~(177) 98504, and a field office at 110 Prefontaine Pl. S., Suite 202, Seattle, Washington, 98104~~), 98501.

AMENDATORY SECTION (Amending WSR 82-20-015, filed 9/28/82)

WAC 34-02-020 Commission meetings. (1) Regular meetings of the commission are held on ~~((the third))~~ a Saturday of January, March, June, September and November. Specific meeting dates will be established by the executive director in conjunction with the chair of the commission. Notice of the time and place of the regular meetings will be published annually in the January edition of the Washington state register and also announced on the CAPAA website. A copy of the schedule of regular meetings may also be obtained upon request from the commission.

(2) Special meetings of the commission may be called at any time by the chairperson of the commission or by a majority of the commission members. Notice of such meetings will be as provided by law.

(3) In addition to the meeting notices specified above, the commission staff will publicize information about all commission meetings in the communities in which the meetings are to be held.

AMENDATORY SECTION (Amending WSR 82-20-015, filed 9/28/82)

WAC 34-02-030 Petitions for rule-making action. (1) Any interested person may petition the commission requesting the promulgation, amendment or repeal of any rule. The petition may be in any form, so long as the following information is contained therein:

(a) Name and address of the person, organization or corporation requesting the promulgation, amendment or repeal of the rule. If the request is being made by an organization or corporation, the name of a designated individual for contact must be provided.

(b) Text or substance of the proposed rule or amendment, or specific reference to the appropriate rule in cases where repeal is requested.

(c) Full explanation for the requested promulgation, amendment or repeal of rules.

(2) Within ~~((thirty))~~ sixty days after submission of a petition, ~~((or at the next meeting of the commission if the commission does not meet within thirty days,))~~ the commission will formally consider the petition and shall ~~((within thirty days thereafter,))~~ either deny the petition in writing (stating reasons for the denial) or initiate rule-making proceedings in accordance with chapter ~~((34.04))~~ 34.05 RCW (Administrative Procedure Act).

AMENDATORY SECTION (Amending WSR 82-20-015, filed 9/28/82)

WAC 34-02-040 Communications with the commission. Any and all written communications with the commission ~~((s))~~ including, but not limited to, requests for information or copies of agency records, or submittals of any nature, shall be addressed to the commission on ~~((Asian American))~~ Asian Pacific American affairs, in care of the executive director, at ~~((either the commission's Olympia or Seattle office. The address for each office appears in WAC 34-02-010(3)))~~ the commission's central administrative office.

WSR 20-09-105

PERMANENT RULES

UNIVERSITY OF WASHINGTON

[Filed April 16, 2020, 1:21 p.m., effective May 17, 2020]

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

Purpose: The University of Washington is updating WAC 478-121-135, student conduct code for the University of Washington, Hazing, and WAC 478-124-037, general conduct code for the University of Washington, conduct on campus code—Hazing to bring these two sections into alignment and to provide relevant examples of behaviors of hazing.

Citation of Rules Affected by this Order: Amending WAC 478-121-135 and 478-124-037.

Statutory Authority for Adoption: RCW 28B.20.130 and 28B.10.900 through 28B.10.903.

Adopted under notice filed as WSR 20-03-167 on January 21, 2020.

Changes Other than Editing from Proposed to Adopted Version: There were some minor edits made to provide additional clarity. No substantial changes.

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 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 0, Repealed 0.

Date Adopted: April 9, 2020.

Barbara Lechtanski
Director of University
Policy and Rules Office

AMENDATORY SECTION (Amending WSR 17-15-068, filed 7/14/17, effective 8/18/17)

WAC 478-121-135 Hazing. All student organizations and living groups are prohibited from hazing.

(1) Hazing includes ~~((any method of))~~:

(a) Conduct associated with initiation or admission into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group, that causes ~~((s))~~ or is likely to cause ~~((s))~~ bodily danger or physical harm ~~((s))~~ or serious ~~((mental))~~ psychological or emotional harm ~~((s))~~ to any student or other person. ~~((Hazing activities may))~~ This conduct includes, but ~~((are))~~ is not limited to ~~((encouraging or promoting the abuse of alcohol))~~:

(i) Humiliation by ritual act;

(ii) Striking another person whether by use of any object or any part of one's body;

(iii) Causing someone to experience excessive fatigue or physical and/or psychological shock; ~~((or))~~

(iv) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious ~~((men- tal))~~ psychological, emotional, and/or physical harm~~((:))~~; or

(v) Encouraging or promoting the unlawful possession, forced or coerced use, or competitive or ritualistic consumption of alcohol, drugs or other substances.

(b) Hazing also includes conduct that is not a violation of (a) of this subsection and is associated with initiation or admission into a student organization or living group, or any pastime or amusement engaged in with respect to a student organization or living group, such as:

(i) Subtle hazing: Activities or situations created that emphasize a direct or indirect power imbalance between members. This includes, but is not limited to, physical or mental manipulation, or causing someone to believe that they may be required to participate in degrading or humiliating games or activities that create psychological, emotional, or physical harm;

(ii) Harassment hazing: Activities that cause confusion, frustration, or physical discomfort that are directly or indirectly required, in order to become or remain a member of the student organization or living group. This includes, but is not limited to, sleep deprivation, verbal abuse, or being expected to harass others; or

(iii) Interference hazing: Activities that do not allow reasonably adequate time for study or that otherwise unreasonably interferes with academic obligations.

(2) Hazing does not include customary athletic or cultural events or other similar contests or competitions.

(3) Consent ~~((of a victim or victims))~~ is not a defense to ~~((an allegation of))~~ hazing.

(4) Any student organization or living group that knowingly permits hazing as defined in subsection (1)(a) of this section shall be deprived of official recognition, approval, or registration granted by the university.

Any student organization or living group that knowingly permits hazing as defined in subsection (1)(b) of this section shall either be deprived of official recognition, approval, or registration or be placed on disciplinary probation for a period specified by the university.

(5) Students found responsible for violations of this section shall forfeit any entitlement to state funded grants, scholarships, or awards for a specified period of time determined by the university.

AMENDATORY SECTION (Amending WSR 96-10-051, filed 4/29/96, effective 5/30/96)

WAC 478-124-037 Conduct on campus code—Hazing. All ~~((university))~~ student organizations~~((, associations and student))~~ and living groups are prohibited from hazing.

(1) Hazing includes:

(a) ~~((Any method of))~~ Conduct associated with initiation or admission into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes~~((s))~~ or is likely to

cause~~((s))~~ bodily danger or physical harm~~((s))~~ or serious ~~((mental))~~ psychological or emotional harm to any student or other person ~~((attending the university; and))~~. This conduct includes, but is not limited to:

(i) Humiliation by ritual act;

(ii) Striking another person whether by use of any object or any part of one's body;

(iii) Causing someone to experience fatigue or physical and/or psychological shock;

(iv) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm; or

(v) Encouraging or promoting the unlawful possession, forced or coerced use, or competitive or ritualistic consumption of alcohol, drugs, or other substances.

(b) Hazing also includes conduct that is not a violation of (a) of this subsection associated with initiation or admission into a student organization or living group, or any pastime or amusement engaged in with respect to ~~((an))~~ a student organization or living group ~~((not amounting to a violation of (a) of this subsection, but including such conduct as humiliation by ritual act and sleep deprivation))~~, such as:

(i) Subtle hazing: Activities or situations created that emphasize a direct or indirect power imbalance between members. This includes, but is not limited to, physical or mental manipulation, or causing someone to believe that they may be required to participate in degrading or humiliating games or activities that create psychological, emotional, or physical harm;

(ii) Harassment hazing: Activities that cause confusion, frustration, or physical discomfort that are directly or indirectly required, in order to become or remain a member of the student organization or living group. This includes, but is not limited to, sleep deprivation, verbal abuse, or being expected to harass others; or

(iii) Interference hazing: Activities that do not allow reasonably adequate time for study or that otherwise unreasonably interferes with academic obligations.

(2) Hazing does not include customary athletic or cultural events or other similar contests or competitions.

(3) Consent is ~~((no))~~ not a defense to hazing. ~~((Hazing does not include customary athletic events or other similar contests or competition.~~

~~((2))~~ (4) Any ~~((university))~~ student organization~~((, association))~~ or student living group that knowingly permits hazing as defined in subsection (1)(a) of this section shall be deprived of official recognition ~~((or))~~, approval, or registration granted by the university. Any ~~((university))~~ student organization~~((, association or student))~~ or living group that knowingly permits hazing as defined in subsection (1)(b) of this section shall either be deprived of official recognition, approval, or registration or be placed on disciplinary probation for a period specified by the university.

(5) Students found responsible for violations of WAC 478-121-135 shall forfeit any entitlement to state funded grants, scholarships, or awards for a specified period of time determined by the university.

WSR 20-09-108
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed April 16, 2020, 2:34 p.m., effective May 17, 2020]

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

Purpose: The department is adopting rules to correct civil fine implementation dates adopted under WSR 19-18-031 and comply with RCW 18.20.190 Department response to noncompliance or violations.

Citation of Rules Affected by this Order: Amending WAC 388-78A-3181 and 388-78A-3183.

Statutory Authority for Adoption: RCW 18.20.090.

Adopted under notice filed as WSR 20-03-183 on January 22, 2020.

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 0, Repealed 0.

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

Date Adopted: April 16, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-18-031, filed 8/29/19, effective 9/29/19)

WAC 388-78A-3181 Remedies—Specific—Civil penalties. (1) The department may impose civil penalties of at least one hundred dollars per day per violation.

AMENDATORY SECTION (Amending WSR 19-18-031, filed 8/29/19, effective 9/29/19)

WAC 388-78A-3183 Remedies—Civil fine grid. Effective ~~((exact date to be determined))~~ May 17, 2020, the department will consider the guidance in the tiered sanction grid below when imposing civil fine remedies:

No Harm	Minimal to Moderate Harm		Severe Harm		Imminent Danger, Immediate Threat, or Both
	Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Initial	
Civil fine of at least one hundred dollars per violation.	Civil fine up to two hundred and fifty dollars per violation per day.	Civil fine up to five hundred dollars per violation per day.	Civil fine up to seven hundred and fifty dollars per violation per day.	Civil fine up to one thousand dollars per violation per day.	Civil fine of one thousand dollars per violation per day.

(2) Fines up to one thousand dollars per day per violation may be issued under RCW 18.20.190 through ~~((December 31, 2019))~~ June 30, 2019, and thereafter as follows:

(a) Beginning ~~((January 1, 2020))~~ July 1, 2019, through ~~((December 31, 2020))~~ June 30, 2020, the civil penalties may not exceed two thousand dollars per day per violation; and

(b) Beginning ~~((January 1, 2021))~~ July 1, 2020, the civil penalties may not exceed three thousand dollars per day per violation.

(3) Fines up to three thousand dollars may be issued under RCW 18.20.185 for willful interference with a representative of the long-term care ombuds.

(4) Fines up to three thousand dollars may be issued under RCW 74.39A.060 for retaliation against a resident, employee, or any other person making a complaint, providing information to, or cooperating with, the ombuds, the department, the attorney general's office, or a law enforcement agency.

(5) Fines up to ten thousand dollars may be issued under RCW 18.20.190 for a current or former licensed provider who is operating an unlicensed home.

(6) When the assisted living facility fails to pay a fine under this chapter when due, the department may, in addition to other remedies, withhold an amount equal to the fine plus interest, if any, from any contract payment due to the provider from the department.

(7) Civil monetary penalties are due twenty-eight days after the assisted living facility or the owner or operator of an unlicensed assisted living facility is served with notice of the penalty unless the assisted living facility requests a hearing in compliance with chapter 34.05 RCW, RCW 43.20A.215, and this chapter. If the hearing is requested, the penalty becomes due ten days after a final decision affirming the assessed civil penalty. Thirty days after the department serves the assisted living facility with notice of the penalty, interest begins to accrue at a rate of one percent per month as authorized under RCW 43.20B.695.

(8) All receipts from civil penalties imposed under this chapter must be deposited in the assisted living facility temporary management account created in RCW 18.20.430.

Beginning (~~January 1, 2020~~) July 1, 2019, the department will consider the guidance in the tiered sanction grid below when imposing civil fine remedies:

No Harm	Minimal to Moderate Harm		Severe Harm		Imminent Danger, Immediate Threat, or Both
Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Any Violation
Civil fine of at least one hundred dollars per violation.	Civil fine up to two hundred and fifty dollars per violation or a daily civil fine of at least one hundred and twenty-five dollars per day.	Civil fine up to five hundred dollars per violation or a daily civil fine of at least two hundred and fifty dollars per day.	Civil fine up to one thousand dollars per violation or a daily civil fine of at least five hundred dollars per day.	Civil fine up to one thousand five hundred dollars per violation or a daily civil fine of at least seven hundred and fifty dollars per day.	Civil fine of two thousand dollars or daily civil fine of at least one thousand dollars per day.

Beginning (~~January 1, 2021~~) July 1, 2020, the department will consider the guidance in the tiered sanction grid below when imposing civil fine remedies:

No Harm	Minimal to Moderate Harm		Severe Harm		Imminent Danger, Immediate Threat, or Both
Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Any Violation
Civil fine of at least one hundred dollars per violation.	Civil fine up to five hundred dollars per violation or a daily civil fine of at least two hundred and fifty dollars per day.	Civil fine up to one thousand dollars per violation or a daily civil fine of at least five hundred dollars per day.	Civil fine up to two thousand dollars per violation or a daily civil fine of at least one thousand dollars per day.	Civil fine up to three thousand dollars per violation or a daily civil fine of at least one thousand five hundred dollars per day.	Civil fine of three thousand dollars or daily civil fine of at least one thousand dollars per day.

For the purpose of this section, the following definitions of harm apply:

- (1) **"Minimal"** means violations that result in little to no negative outcome or little or no potential harm for a resident.
- (2) **"Moderate"** means violations that result in negative outcome and actual or potential harm for a resident.
- (3) **"Severe"** means violations that either result in one or more negative outcomes and significant actual harm to residents that does not constitute imminent danger, or there is a reasonable predictability of recurring actions, practices, situations, or incidents with potential for causing significant harm to a resident, or both.
- (4) **"Imminent danger"** or **"immediate threat"** means serious physical harm to or death of a resident has occurred, or there is a serious threat to the resident's life, health, or safety.

WSR 20-09-131

PERMANENT RULES

HORSE RACING COMMISSION

[Filed April 21, 2020, 10:12 a.m., effective May 22, 2020]

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

Purpose: To amend the time required between races for a horse to be declared ineligible to be claimed.

Citation of Rules Affected by this Order: Amending WAC 260-60-405.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 20-05-028 on February 10, 2020.

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 1, 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 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 17, 2020.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 09-21-016, filed 10/9/09, effective 11/9/09)

WAC 260-60-405 Claiming—Declaring a horse ineligible to be claimed at time of entry. (1) At the time of entry, the owner, trainer, or if designated, the jockey agent, may opt to declare a horse ineligible to be claimed provided: ~~((a))~~ The horse has been laid off and has not started in a race for a minimum of one hundred ~~((eighty))~~ days ~~(; and~~

~~(b) The horse is entered for a claiming price equal to or greater than the price at which the horse last started.~~

~~(2)) and is entered for a claiming price equal to or greater than the price at which the horse last started. For counting purposes the day following the horses last race will count as day one. The horse is eligible to start on day one hundred one.~~

(2) Failure to declare the horse ineligible to be claimed at the time of entry may not be remedied.

(3) ~~((The provisions of this rule will only apply to the first start following each layoff.))~~ A horse that enters a claiming race and is declared ineligible to be claimed in such race, cannot consider that race for eligibility in a starter's allowance race.

WSR 20-09-144

PERMANENT RULES

DEPARTMENT OF COMMERCE

(Public Works Board)

[Filed April 21, 2020, 3:42 p.m., effective May 22, 2020]

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

Purpose: The public works board has new RCW 43.155.160 Broadband service expansion grant and loan program. New chapter 399-80 WAC is for the broadband program. In addition to update the WAC to include chapter 399-80 WAC, and legislature updates on chapter 43.155 RCW that occurred during 2019.

Citation of Rules Affected by this Order: New WAC 399-80-010, 399-83-020, and 399-80-030.

Statutory Authority for Adoption: RCW 43.155.040(5).

Adopted under notice filed as WSR 20-05-081 on February 18, 2020.

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: April 14, 2020.

Sarah Coggins
Rules Coordinator

Chapter 399-80 WAC

PUBLIC WORKS BOARD BROADBAND

NEW SECTION

WAC 399-80-010 Broadband service expansion grant and loan program. (1) The board, in collaboration with the office, shall establish a competitive grant and loan program to award funding to eligible applicants in order to promote the expansion of access to broadband service in unserved areas of the state.

(2)(a) Grants and loans may be awarded under this section to assist in funding acquisition, installation, and construction of middle mile and last mile infrastructure that supports broadband services and to assist in funding strategic planning for deploying broadband service in unserved areas.

(b) The board may choose to fund all or part of an application for funding, provided that the application meets the requirements of subsection (9) of this section.

(3) Eligible applicants for grants and loans awarded under this section include:

- (a) Local governments;
- (b) Tribes;
- (c) Nonprofit organizations;
- (d) Cooperative associations;
- (e) Multiparty entities comprised of public entity members;
- (f) Limited liability corporations organized for the purpose of expanding broadband access; and
- (g) Incorporated businesses or partnerships.

(4)(a) The board shall develop administrative procedures governing the application and award process. The board shall act as fiscal agent for the program and is responsible for receiving and reviewing applications and awarding funds under this section.

(b) At least sixty days prior to the first day applications may be submitted each fiscal year, the board must publish on its website the specific criteria and any quantitative weighting scheme or scoring system that the board will use to evaluate or rank applications and award funding.

(c) The board may maintain separate accounting in the statewide broadband account created in RCW 43.155.165 as the board deems necessary to carry out the purposes of this section.

(d) The board must provide a method for the allocation of loans, grants, provision of technical assistance, and interest rates under this section.

(5) An applicant for a grant or loan under this section must provide the following information on the application:

- (a) The location of the project;
- (b) Evidence regarding the unserved nature of the community in which the project is to be located;
- (c) Evidence that proposed infrastructure will be capable of scaling to greater download and upload speeds;
- (d) The number of households passed that will gain access to broadband service as a result of the project or whose broadband service will be upgraded as a result of the project;
- (e) The estimated cost of retail services to end users facilitated by a project;
- (f) The proposed actual download and upload speeds experienced by end users;
- (g) Evidence of significant community institutions that will benefit from the proposed project;
- (h) Anticipated economic, educational, health care, or public safety benefits created by the project;
- (i) Evidence of community support for the project;
- (j) If available, a description of the applicant's user adoption assistance program and efforts to promote the use of newly available broadband services created by the project;
- (k) The estimated total cost of the project;
- (l) Other sources of funding for the project that will supplement any grant or loan award;
- (m) A demonstration of the project's long-term sustainability, including the applicant's financial soundness, organizational capacity, and technical expertise;
- (n) A strategic plan to maintain long-term operation of the infrastructure;
- (o) Evidence that no later than six weeks before submission of the application, the applicant contacted, in writing, all entities providing broadband service near the proposed project area to ask each broadband service provider's plan to upgrade broadband service in the project area to speeds that meet or exceed the state's definition for broadband service as defined in RCW 43.330.530, within the time frame specified in the proposed grant or loan activities;
- (p) If applicable, the broadband service providers' written responses to the inquiry made under (o) of this subsection; and
- (q) Any additional information requested by the board.

(6)(a) Within thirty days of the close of the grant and loan application process, the board shall publish on its website the proposed geographic broadband service area and the proposed broadband speeds for each application submitted.

(b) Any existing broadband service provider near the proposed project area may, within thirty days of publication of the information under (a) of this subsection, submit in writing to the board an objection to an application. An objection must contain information demonstrating that:

(i) The project would result in overbuild, meaning that the objecting provider currently provides, or has begun construction to provide, broadband service to end users in the proposed project area at speeds equal to or greater than the state speed goals contained in RCW 43.330.536; or

(ii) The objecting provider commits to complete construction of broadband infrastructure and provide broadband service to end users in the proposed project area at speeds equal to or greater than the state speed goals contained in RCW 43.330.536, no later than twenty-four months after the date awards are made under this section for the grant and loan cycle under which the application was submitted.

(c) Objections submitted to the board under this subsection must be certified by affidavit.

(d) The board may evaluate the information submitted under this section by the objecting provider and must consider it in making a determination on the application objected to. The board may request clarification or additional information. The board may choose to not fund a project if the board determines that the objecting provider's commitment to provide broadband service that meets the requirements of (b) of this subsection in the proposed project area is credible. In assessing the commitment, the board may consider whether the objecting provider has or will provide a bond, letter of credit, or other indicia of financial commitment guaranteeing the project's completion.

(e) If the board denies funding to an applicant as a result of a broadband service provider's objection made under this section, and the broadband service provider does not fulfill its commitment to provide broadband service in the project area, then for the following two grant and loan cycles, the board is prohibited from denying funding to an applicant on the basis of a challenge by the same broadband service provider, unless the board determines that the broadband service provider's failure to fulfill the provider's commitment was the result of factors beyond the broadband service provider's control. The board is not prohibited from denying funding to an applicant for reasons other than an objection by the same broadband service provider.

(f) An applicant or broadband service provider that objected to the application may request a debriefing conference regarding the board's decision on the application. Requests for debriefing must be coordinated by the office and must be submitted in writing in accordance with procedures specified by the office.

(g) Confidential business and financial information submitted by an objecting provider under this subsection is exempt from disclosure under chapter 42.56 RCW.

(7)(a) In evaluating applications and awarding funds, the board shall give priority to applications that are constructed in areas identified as unserved.

(b) In evaluating applications and awarding funds, the board may give priority to applications that:

(i) Provide assistance to public-private partnerships deploying broadband infrastructure from areas currently served with broadband service to areas currently lacking access to broadband services;

(ii) Demonstrate project readiness to proceed;

(iii) Construct infrastructure that is open access, meaning that during the useful life of the infrastructure, service providers may use network services and facilities at rates, terms, and conditions that are not discriminatory or preferential between providers, and employing accountable interconnection arrangements published and available publicly;

(iv) Are submitted by tribal governments whose reservations are in rural and remote areas where reliable and efficient broadband services are unavailable to many or most residents;

(v) Bring broadband service to tribal lands, particularly to rural and remote tribal lands or areas servicing rural and remote tribal entities;

(vi) Are submitted by tribal governments in rural and remote areas that have spent significant amounts of tribal funds to address the problem but cannot provide necessary broadband services without either additional state support, additional federal support, or both;

(vii) Serve economically distressed areas of the state as the term "distressed area" is defined in RCW 43.168.020;

(viii) Offer new or substantially upgraded broadband service to important community anchor institutions including, but not limited to, libraries, educational institutions, public safety facilities, and health care facilities;

(ix) Facilitate the use of telemedicine and electronic health records, especially in deliverance of behavioral health services and services to veterans;

(x) Provide technical support and train residents, businesses, and institutions in the community served by the project to utilize broadband service;

(xi) Include a component to actively promote the adoption of newly available broadband services in the community;

(xii) Provide evidence of strong support for the project from citizens, government, businesses, and community institutions;

(xiii) Provide access to broadband service to a greater number of unserved households and businesses, including farms;

(xiv) Utilize equipment and technology demonstrating greater longevity of service;

(xv) Seek the lowest amount of state investment per new location served and leverage greater amounts of funding for the project from other private and public sources;

(xvi) Include evidence of a customer service plan;

(xvii) Consider leveraging existing broadband infrastructure and other unique solutions;

(xviii) Benefit public safety and fire preparedness; or

(xix) Demonstrate other priorities as the board, in collaboration with the office, may prescribe by rule.

(c) The board shall endeavor to award funds under this section to qualified applicants in all regions of the state.

(d) The board shall consider affordability and quality of service to end users in making a determination on any application.

(e) The board, in collaboration with the office, may develop additional rules for eligibility, project applications, the associated objection process, and funding priority, as provided under this subsection and subsections (3), (5), and (6) of this section.

(f) The board, in collaboration with the office, may adopt rules for a voluntary nonbinding mediation between incumbent providers and applicants to the grant and loan program created in this section.

(8) To ensure a grant or loan to a private entity under this section primarily serves the public interest and benefits the public, any such grant or loan must be conditioned on a guar-

antee that the asset or infrastructure to be developed will be maintained for public use for a period of at least fifteen years.

(9)(a) No funds awarded under this section may fund more than fifty percent of the total cost of the project, except as provided in (b) of this subsection.

(b) The board may choose to fund up to ninety percent of the total cost of a project in financially distressed areas as the term "distressed area" is defined in RCW 43.168.020, and in areas identified as Indian country as the term "Indian country" is defined in WAC 458-20-192.

(c) Funds awarded to a single project under this section must not exceed two million dollars, except that the board may choose to fund projects qualifying for the exception in (b) of this subsection up to, but not to exceed, five million dollars.

(10) Prior to awarding funds under this section, the board must consult with the Washington utilities and transportation commission. The commission must provide to the board an assessment of the technical feasibility of a proposed application. The board must consider the commission's assessment as part of its evaluation of a proposed application.

(11) The board shall have such rights of recovery in the event of default in payment or other breach of financing agreement as may be provided in the agreement or otherwise by law.

(12) The community economic revitalization board shall facilitate the timely transmission of information and documents from its broadband program to the board in order to effectuate an orderly transition.

(13) The definitions in RCW 43.330.530 apply throughout this section unless the context clearly requires otherwise.

NEW SECTION

WAC 399-80-020 Statewide broadband account. (1)

The statewide broadband account is created in the state treasury. Moneys received from appropriations by the legislature, the proceeds of bond sales when authorized by the legislature, repayment of loans, or any other lawful source must be deposited into the account for uses consistent with this section. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may be used only:

(a) For grant and loan awards made under RCW 43.155.-160, including costs incurred by the board to administer RCW 43.155.160;

(b) To contract for data acquisition, a statewide broadband demand assessment, or gap analysis;

(c) To supplement revenues raised by bonds sold by local governments for broadband infrastructure development; or

(d) To provide for state match requirements under federal law.

(3) The board must maintain separate accounting for any federal funds in the account.

(4) The definitions in RCW 43.330.530 apply throughout this section unless the context clearly requires otherwise.

NEW SECTION

WAC 399-80-030 Public works board other rules. All other public works board rules set forth in Title 399 WAC shall apply to applications for broadband funding and to broadband projects funded by public works board, except to the extent the other rules set forth in Title 399 WAC conflict with the express language of this chapter 399-80 WAC. In the event of such conflict, the provisions of chapter 399-80 WAC shall control.

Broadband rules as defined in WAC 399-80-010 and 399-80-020.

WSR 20-09-146
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 21, 2020, 6:02 p.m., effective October 1, 2020]

Effective Date of Rule: October 1, 2020.

Purpose: In November of 2016 the Federal Occupational Safety and Health Administration (OSHA) issued a final rule updating its general industry walking-working surfaces standards. Consequently, the division of occupational safety and health (DOSH) amended the rules to make them at-least-as-effective-as the federal OSHA, as required by the Washington state plan.

Adopted amendments relating to walking-working surfaces incorporate federal provisions in 29 C.F.R. 1910.21 through 1910.30. In addition, based on stakeholder input, DOSH adopted several housekeeping changes and clarification. No additional compliance requirements were added beyond the requirements noted in 29 C.F.R. 1910.21 through 1910.30.

Citation of Rules Affected by this Order: New WAC 296-24-73502, 296-24-74005, 296-24-74010, 296-24-74015, 296-24-74025, 296-876-90005, 296-876-90010, 296-876-910, 296-876-91005, 296-876-91010 and 296-91015 [296-876-91015]; repealing WAC 296-24-73507, 296-24-73511, 296-24-750, 296-24-75001, 296-24-75003, 296-24-75005, 296-24-75007, 296-24-75011, 296-24-76501, 296-24-76503, 296-24-76507, 296-24-76509, 296-24-76511, 296-24-76513, 296-24-76519, 296-24-76521, 296-24-76523, 296-24-85503 and 296-24-85505; and amending WAC 296-24-73501, 296-24-73505, 296-24-765, 296-24-76515, 296-24-76555, 296-24-85501, 296-876-099, 296-876-100, 296-876-30005, 296-876-40020, 296-876-40025, 296-876-60025, 296-876-60030, 296-876-60040, 296-876-60045, 296-876-60050, 296-876-60055, 296-876-60065, 296-876-60080, 296-876-70010, and 296-876-80010.

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

Other Authority: Chapter 49.17 RCW.

Adopted under notice filed as WSR 20-01-159 on December 17, 2019.

Changes Other than Editing from Proposed to Adopted Version:

WAC 296-24-74005 General requirements for all stairs.

- In subsection (5)(a) and (b) replaced June with October to reflect updated effective date.

WAC 296-24-74010 Standard stairs.

- In the EXCEPTION replaced June with October to reflect updated effective date.

WAC 296-24-74015 Handrail, stair rail, and guard-rail system requirements.

- Table D-3, extended WAC reference from 296-24 to 296-24-74015 (2)(b).
- In subsection (2)(a), (b) and (3) replaced June with October to reflect updated effective date.
- In Figures D-13a and D-13b replaced June with October to reflect updated effective date.
- Both notes related to Table D-3 replaced June with October to reflect updated effective date.

WAC 296-24-85501 Dockboards (bridge plates).

- In subsection (2) replaced June with October to reflect updated effective date.

WAC 296-876-099 Definitions.

- Cage, added "is designed to surround" as it was mistakenly omitted from the OTS return.

WAC 296-876-60065 Protective structures and equipment.

- In the Note, replaced June with October to reflect updated effective date.

WAC 296-876-90005 Step bolt requirements.

- In subsection (1), (6), (7), (9), and (10) replaced June with October to reflect updated effective date.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 11, Amended 21, Repealed 19; 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 0, Repealed 0.

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

Date Adopted: April 21, 2020.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 95-22-015, filed 10/20/95, effective 1/16/96)

WAC 296-24-73501 ((General requirements.))

Scope. This section applies to all permanent places of employment, except where domestic, mining, or agricultural work only is performed. Construction work is not to be deemed as a permanent place of employment. ~~((Measures for the control of toxic materials are considered to be outside the~~

~~scope of this section.)~~ This section covers all walking-working surfaces unless specifically excluded by an individual paragraph of this section. Where used in Part J of this chapter.

NEW SECTION

WAC 296-24-73502 Definitions. As used in Part J of this chapter, the following definitions apply:

Alternating tread-type stair. A type of stairway consisting of a series of treads that are usually attached to a center support in an alternating manner such that an employee typically does not have both feet on the same level while using the stairway.

Dockboard. A portable or fixed device that spans a gap or compensates for a difference in elevation between a loading platform and a transport vehicle. Dockboards include, but are not limited to, bridge plates, dock plates, and dock levelers.

Failure. A load refusal, breakage, or separation of component parts. A load refusal is the point at which the ultimate strength of a component or object is exceeded.

Grab bar. An individual horizontal or vertical handhold installed to provide access above the height of the ladder.

Guardrail system. A barrier erected along an unprotected or exposed side, edge, or other area of a walking-working surface to prevent employees from falling to a lower level. For dimension requirements (rail heights, etc.), see the unified fall protection rule (chapter 296-880 WAC).

Handrail. Means a rail used to provide employees with a handhold for support.

Lower level. A surface or area to which an employee could fall. Such surfaces or areas include, but are not limited to, ground levels, floors, roofs, ramps, runways, excavations, pits, tanks, materials, water, equipment, and similar surfaces and structures, or portions thereof.

Maximum intended load. The total load (weight and force) of all employees, equipment, vehicles, tools, materials, and other loads the employer reasonably anticipates to be applied to a walking-working surface at any one time.

Nose, nosing. That portion of a tread projecting beyond the face of the riser immediately below.

Open riser. The gap or space between treads of stairways that do not have upright or inclined members (risers).

Platform. A walking-working surface that is elevated above the surrounding area.

Qualified. Describes a person who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project.

Railing. A vertical barrier erected along exposed sides of stairways and platforms to prevent falls of persons. The top member of railing usually serves as a handrail.

Ramp. An inclined walking-working surface used to access another level.

Rise. The vertical distance from the top of a tread to the top of the next higher tread.

Riser. The upright (vertical) or inclined member of a stair that is located at the back of a stair tread or platform and

connects close to the front edge of the next higher tread, platform, or landing.

Runway. An elevated walking-working surface, such as a catwalk, a foot walk along shafting, or an elevated walkway between buildings.

Ship stair (ship ladder). A stairway that is equipped with treads, stair rails, and open risers, and has a slope that is between 50 and 70 degrees from the horizontal.

Spiral stairs. A series of treads attached to a vertical pole in a winding fashion, usually within a cylindrical space.

Stair platform. An extended step or landing breaking a continuous run of stairs.

Stair rail or stair rail system. A barrier erected along the exposed or open side of stairways to prevent employees from falling to a lower level.

Stairway (stairs). Risers and treads that connect one level with another, and includes any landings and platforms in between those levels. Stairways include standard, spiral, alternating tread-type, and ship stairs.

Standard stairs. A fixed or permanently installed stairway. Ship, spiral, and alternating tread-type stairs are not considered standard stairs.

Tread. A horizontal member of a stair or stairway, but does not include landings or platforms.

Unprotected sides and edges. Mean any side or edge of a walking-working surface (except at entrances and other points of access) where there is no wall, guardrail system, or stair rail system to protect an employee from falling to a lower level. For requirements relating to unprotected sides and edges, see the unified fall protection rule (chapter 296-880 WAC).

Walking-working surface. Any surface, whether horizontal or vertical on which an employee walks, works, or gains access to a work area or workplace location. Walking-working surfaces include, but are not limited to, floors, the ground, roofs, ramps, bridges, runways, stairs, dockboards, formwork and concrete reinforcing steel.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-73505 ((Aisles and passageways)) General requirements. ~~((1) You must ensure that where mechanical handling equipment is used, sufficient safe clearances are allowed for aisles, at loading docks, through doorways and wherever turns or passage must be made. You must keep aisles and passageways clear and in good repairs, with no obstruction across or in aisles that could create a hazard.~~

~~((2) You must ensure that permanent aisles and passageways are appropriately marked. "Appropriate" does not limit the marking to printed lines on the floor only. Other appropriate methods may be marked pillars, powder stripping, flags, traffic cones, or barrels, provided they are maintained in good repair and the recognition of such markings are included in the training programs for vehicle operators and employees.~~

~~((3) You must ensure that all trestles in connection with industrial plants on which cars run, which are also used as walkways for workers, are equipped with a walkway on the outer edge, so located as to give safe minimum clearance of 3 feet to cars. Such walkways must be equipped with standard~~

rails. Where a trestle crosses a driveway or passageway the trestle over such points must be solidly boarded over.) (1) Surface conditions. You must ensure:

(a) All places of employment, passageways, storerooms, service rooms, and walking-working surfaces are kept in a clean, orderly, and sanitary condition.

Note: Sanitary condition covers hazard exposures other than slips, trips, and falls. Examples of this include the prevention of illness/disease, and the prevention of fire and explosion resulting from combustible dust accumulations.

(b) The floor of each workroom is maintained in a clean and, to the extent feasible, in a dry condition. When wet processes are used, drainage must be maintained and, to the extent feasible, dry standing places, such as false floors, platforms, and mats must be provided.

(c) Walking-working surfaces are maintained free of hazards such as sharp or protruding objects, loose boards, corrosion, leaks, spills, snow, and ice.

(2) You must ensure that each walking-working surface can support the maximum intended load for that surface.

(3) You must provide, and ensure each employee uses, a safe means of access and egress to and from walking-working surfaces.

(4) Inspection, maintenance, and repair. You must ensure:

(a) Walking-working surfaces are inspected, regularly and as necessary, and maintained in a safe condition.

(b) Hazardous conditions on walking-working surfaces are corrected or repaired before an employee uses the walking-working surface again. If the correction or repair cannot be made immediately, the hazard must be guarded to prevent employees from using the walking-working surface until the hazard is corrected or repaired.

(c) When any correction or repair involves the structural integrity of the walking-working surface, a qualified person performs or supervises the correction or repair.

NEW SECTION

WAC 296-24-74005 General requirements for all stairs. In addition to the requirements in WAC 296-24-735, you must ensure:

(1) Handrails, stair rail systems, and guardrail systems are provided in accordance with WAC 296-24-74015.

Note: For guardrail system requirements, see the unified fall protection rule (chapter 296-880 WAC).

(2) Vertical clearance above any stair tread to any overhead obstruction is at least 6 feet 8 inches (203 cm), as measured from the leading edge of the tread. Spiral stairs must meet the vertical clearance requirements in WAC 296-24-74015.

(3) Stairs have uniform riser heights and tread depths between landings.

(4) Stairway landings and stair platforms are at least the width of the stair and at least 30 inches (76 cm) in depth; as measured in the direction of travel.

(5) When a door or a gate opens directly on a stairway, a stair platform is provided, and the swing of the door or gate does not reduce the stair platform's effective usable depth to:

(a) Less than 20 inches (51 cm) for stair platforms installed before October 1, 2020; and

(b) Less than 22 inches (56 cm) for stair platforms installed on or after October 1, 2020 (see Figure D-7 of this section).

(6) Each stair can support at least five times the normal anticipated live load, but never less than a concentrated load of 1,000 pounds (454 kg) applied at any point.

(7) Standard stairs are used to provide access from one walking-working surface to another when operations necessitate regular and routine (once per week) travel between levels, including access to operating platforms for equipment. Winding stairways may be used on tanks and similar round structures when the diameter of the tank or structure is at least 5 feet (1.5 m).

(8) Spiral, ship, or alternating tread-type stairs are used only when the employer can demonstrate that it is not feasible to provide standard stairs.

(9) When subsection (8) of this section allows the use of spiral, ship, or alternating tread-type stairs, they are installed, used, and maintained in accordance with manufacturer's instructions.

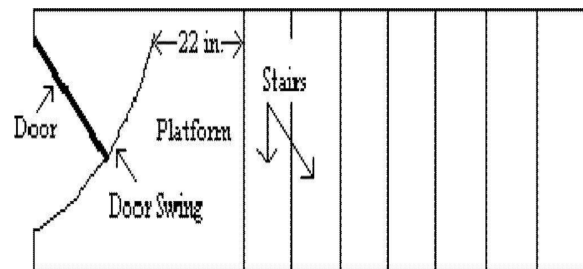


Figure D-7 - Door or Gate Opening on Stairway

(10) Each tread and the top landing of a stairway, where risers are used, should have a nose which extends .5 inch to 1 inch beyond the face of the lower riser.

(11) Stair tread noses should have an even leading edge.

NEW SECTION

WAC 296-24-74010 Standard stairs. In addition to WAC 296-24-74005, you must also ensure standard stairs:

(1) Are installed at angles between 30 to 50 degrees from the horizontal.

(2) Have a maximum riser height of 9.5 inches (24 cm).

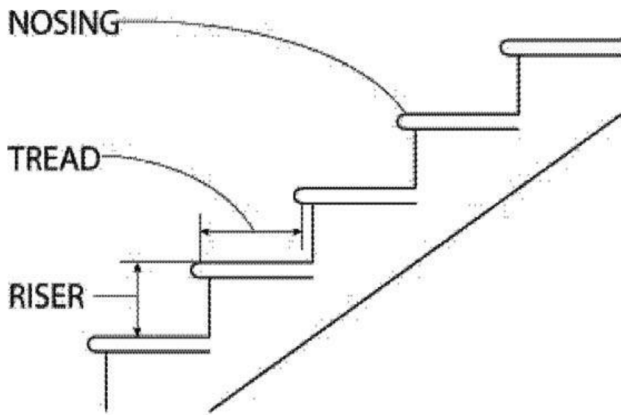
(3) Have a minimum tread depth of 9.5 inches (24 cm).

(4) Have a minimum width of 22 inches (56 cm) between vertical barriers (see Figure D-8 of this section).

EXCEPTION: Subsections (2) and (3) of this section do not apply to standard stairs installed prior to October 1, 2020, provided those stairs meet the dimension requirements specified in Table D-1 of this section or they use a combination that achieves the angle requirements of subsection (1) of this section.

TABLE D-1

Angle to Horizontal	Rise (in inches)	Tread Run (in inches)
30°35'	6 1/2	11
32°08'	6 3/4	10 3/4
33°41'	7	10 1/2
35°16'	7 1/4	10 1/4
36°52'	7 1/2	10
38°29'	7 3/4	9 3/4
40°08'	8	9 1/2
41°44'	8 1/4	9 1/4
43°22'	8 1/2	9
45°00'	8 3/4	8 3/4
46°38'	9	8 1/2
48°16'	9 1/4	8 1/4
49°54'	9 1/2	8



MINIMUM TREAD WIDTH 22 IN (56 CM)
 MINIMUM TREAD DEPTH 9.5 IN (24 CM)
 MAXIMUM RISER HEIGHT 9.5 IN (24 CM)

Figure D-8

NEW SECTION

WAC 296-24-74015 Handrail, stair rail, and guard-rail system requirements. Handrail and stair rail systems must meet the following criteria:

Note: For guardrail system requirements, see the unified fall protection rule (chapter 296-880 WAC).

(1) Handrails are not less than 30 inches (76 cm) and not more than 38 inches (97 cm), as measured from the leading edge of the stair tread to the top surface of the handrail (see Figure D-12 of this section).

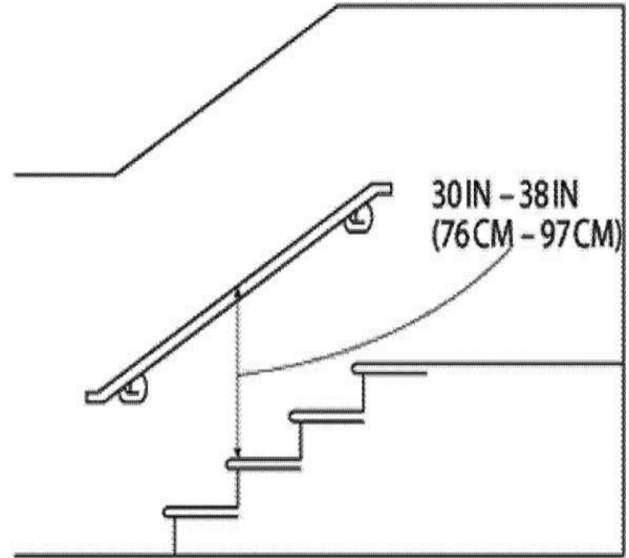
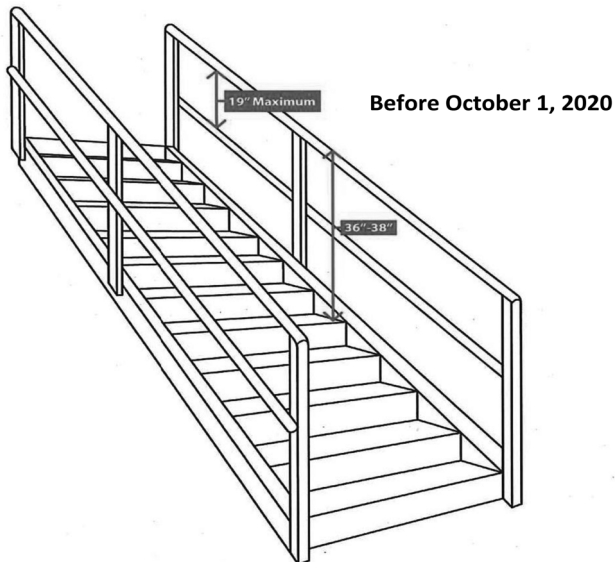


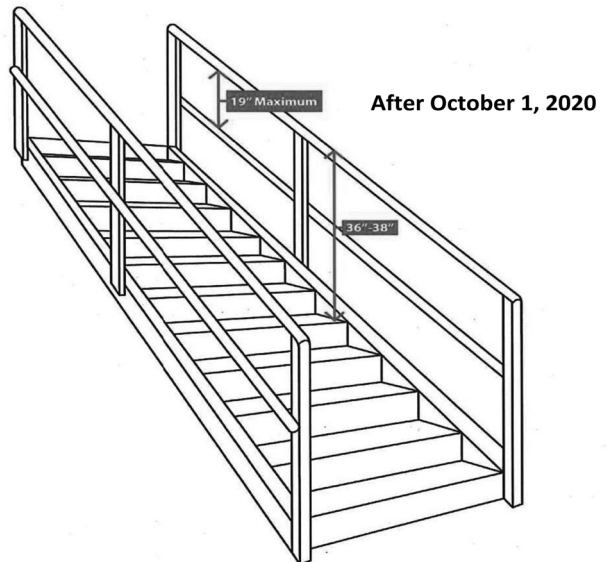
Figure D-12 - Handrail Measurement

- (2) The height of stair rail systems meets the following:
 - (a) The height of stair rail systems installed before October 1, 2020, is not less than 30 inches (76 cm) from the leading edge of the stair tread to the top surface of the top rail; and
 - (b) The height of stair rail systems installed on or after October 1, 2020, is not less than 42 inches (107 cm) from the leading edge of the stair tread to the top surface of the top rail. This 42 inch height requirement intentionally conflicts with the requirement above the handrail heights be between 30 to 38 inches above the stair tread. Handrails and stair rails constructed after the effective date above must be separate (see Figure D-13b of this section).
- (3) The top rail of a stair rail system installed before October 1, 2020, may serve as a handrail only when:
 - (a) The height of the stair rail system is not less than 36 inches (91 cm) and not more than 38 inches (97 cm) as measured at the leading edge of the stair tread to the top surface of the top rail (see Figure D-13a of this section); and
 - (b) The top rail of the stair rail system meets the other handrail requirements in (f) of this subsection.

**Figure D-13a - Combination Handrail and Stair Rail
Installed prior to
October 1, 2020**



**Figure D-13b - Combination Handrail and Stair Rail
Installed after
October 1, 2020**



- (4) Finger clearance. The minimum clearance between handrails and any other object is 2.25 inches (5.7 cm).
- (5) Surfaces. Handrail/stair rail systems are smooth-surfaced to protect employees from injury, such as punctures or lacerations, and to prevent catching or snagging of clothing.
- (6) Openings in stair rails. No opening in a stair rail system exceeds 19 inches (48 cm) at its least dimension.
- (7) Handholds. Handrails have the shape and dimension necessary so that employees can grasp the handrail firmly.
- (8) Projection hazards. The ends of handrails and stair rail systems do not present any projection hazards.
- (9) Strength criteria. Handrails and the top rails of stair rail systems are capable of withstanding, without failure, a force of at least 200 pounds (890 N) applied in any downward or outward direction within 2 inches (5 cm) of any point along the top edge of the rail.

Note: Table D-3 below is informational only. Table D-3 is provided for employers and employees to quickly review and contrast various railing regulations (DOSH, federal OSHA, and International Building Code) in effect at the date of publication of this rule, October 1, 2020. Refer to referenced rule itself for details relating to scope, intent, definitions, application, etc.

Table D-3 - Informational Summary of Railing Requirements

Standard	Stair Rail Height	Hand Rail Height	Stair Rail as Hand Rail	Mid Rail	Toe Board
Chapter 296-880 WAC	N/A	30" - 38"	N/A	<i>Halfway</i>	43.5"
29 C.F.R. 1910.29	42" min.	30" - 38"	36" - 38"*	<i>Midway</i>	2.5"-3.5"
29 C.F.R. 1926.502/1926.1052	36" min.	30" - 37"	36" - 37"	<i>Between</i>	3.5" min.
IBC (2018) 1014/1015 (per RCW 19.27.031)	42" min.	34" - 38"	34" - 38" (Group F)	Openings < 21"	Openings < 4"

* If installed prior to October 1, 2020, otherwise prohibited in WAC 296-24-74015 (2)(b).

NEW SECTION

WAC 296-24-74025 Ship stairs. In addition to WAC 296-24-74005, you must also ensure ship stairs (see Figure D-9 of this section):

- (1) Are installed at a slope of 50 to 70 degrees from the horizontal;
- (2) Have open risers with a vertical rise between tread surfaces of 6.5 to 12 inches (17 to 30 cm);
- (3) Have minimum tread depth of 4 inches (10 cm); and
- (4) Have a minimum tread width of 18 inches (46 cm).

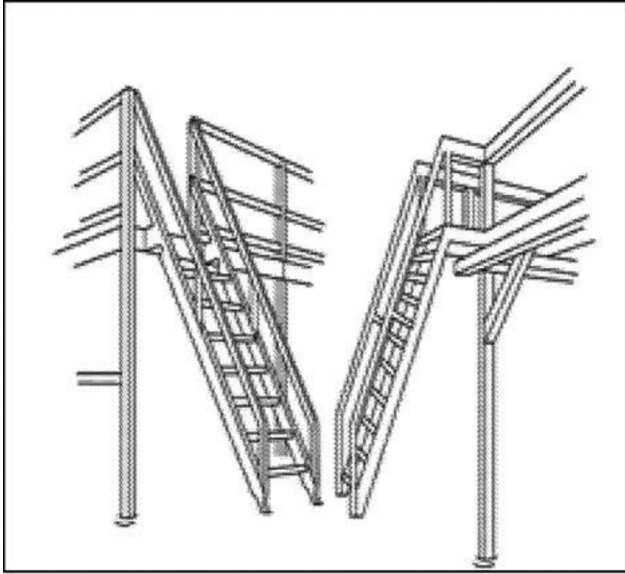


Figure D-9 - Ship Stairs

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-765 ((Fixed industrial stairs.)) Stairways. This section contains specifications for the safe design and construction of fixed general industrial stairs. This classification includes interior and exterior stairs around machinery, tanks, and other equipment, and stairs leading to or from floors, platforms, or pits. This section does not apply to stairs used for fire exit purposes, construction operations, stairs on scaffolds, stairs designed into machines or equipment, articulated stairs, such as may be installed on floating roof tanks or on dock facilities, the angle of which changes with the rise and fall of the base support, or to stairs on self-propelled motorized equipment.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-76515 ((Length of stairways.)) Spiral stairs. ((Long flights of stairs, unbroken by landings or intermediate platforms, should be avoided. Consideration should be given to providing intermediate platforms where practical and where such stairways are in frequent use. You must ensure that stairway platforms are no less than the width of a stairway and a minimum of 30 inches in length measured in the direction of travel.)) In addition to WAC-296-24-74005, you must also ensure spiral stairs:

- (1) Have a minimum clear width of 26 inches (66 cm);
- (2) Have a maximum riser height of 9.5 inches (24 cm);
- (3) Have a minimum headroom above spiral stair treads of at least 6 feet 6 inches (2 m), measured from the leading edge of the tread;
- (4) Have a minimum tread depth of 7.5 inches (19 cm), measured at a point of 12 inches (30 cm) from the narrower edge; and

- (5) Have a uniform tread size.

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-76555 Alternating tread-type stairs.

Alternating tread-type stairs have a series of steps between 50 and 70 degrees from horizontal, attached to a center support rail in an alternating manner so that a user of the stairs never has both feet at the same level at the same time. (See Figure ((D-12)) D-11 of this section.)

(1) You must ensure that alternating tread-type stairs are designed, installed, used, and maintained in accordance with approved manufacturer's specifications, and have the following:

- (a) Stair rails on all open sides;
- (b) Handrails on both sides of enclosed stairs;
- (c) Stair rails and handrails of such configuration as to provide an adequate handhold for a user grasping it to avoid a fall;
- (d) A ((minimum)) distance of 17 to 24 inches between handrails;
- (e) A minimum width of 22 inches overall;
- (f) A minimum tread depth of ((8)) 8.5 inches;
- (g) A minimum tread width of 7 inches; ((and))
- (h) A maximum rise of ((9-1/2)) 9.5 inches to the tread surface of the next alternating tread; and
- (i) Open risers if the tread depth is less than 9.5 inches (24 cm).

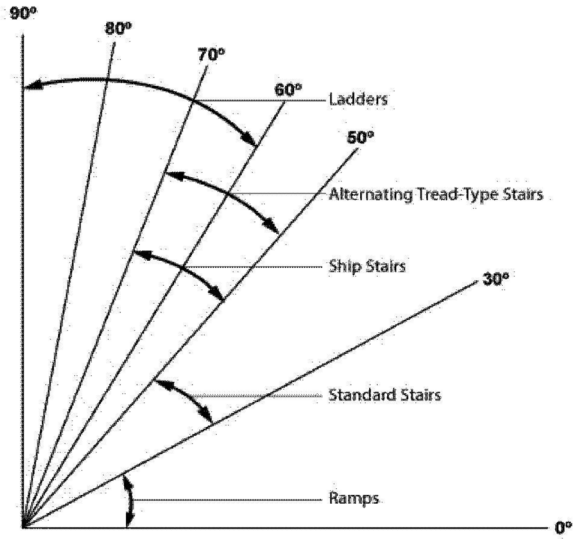
(2) You must ensure that alternating tread-type stairs have not more than a 20-foot continuous rise. You must provide one or more intermediate stair platforms in accordance with WAC ((296-24-76515)) 296-24-74005 where more than a 20-foot rise is necessary to reach the top of a required stair.

((3) You must ensure that stairs and platforms are installed so the top landing of the alternating tread stair is flush with the top of the landing platform.

(4) You must ensure that stair design and construction sustains a load of not less than 5 times the normal live load, but never less strength than to carry safely a moving concentrated load of 1,000 pounds.

(5) You must ensure that treads are equipped with slip-resistant surfaces.

(6) You must ensure that where a platform or landing is used, the width is not less than the width of the stair nor less than 30-inch depth in the direction of travel. You must ensure that stairs are flush with the top of the landing platform.))



<u>Angle</u>	<u>Type</u>
<u><math>< 30^\circ</math></u>	<u>Ramps</u>
<u>30° - 50°</u>	<u>Standard Stairs</u>
<u>50° - 70°</u>	<u>Ship Stairs</u>
<u>50° - 70°</u>	<u>Alternating Tread-Type Stairs</u>
<u>60° - 90°</u>	<u>Ladders</u>

Figure D-10 - Angles for Stairs, Ramps, and Ladders

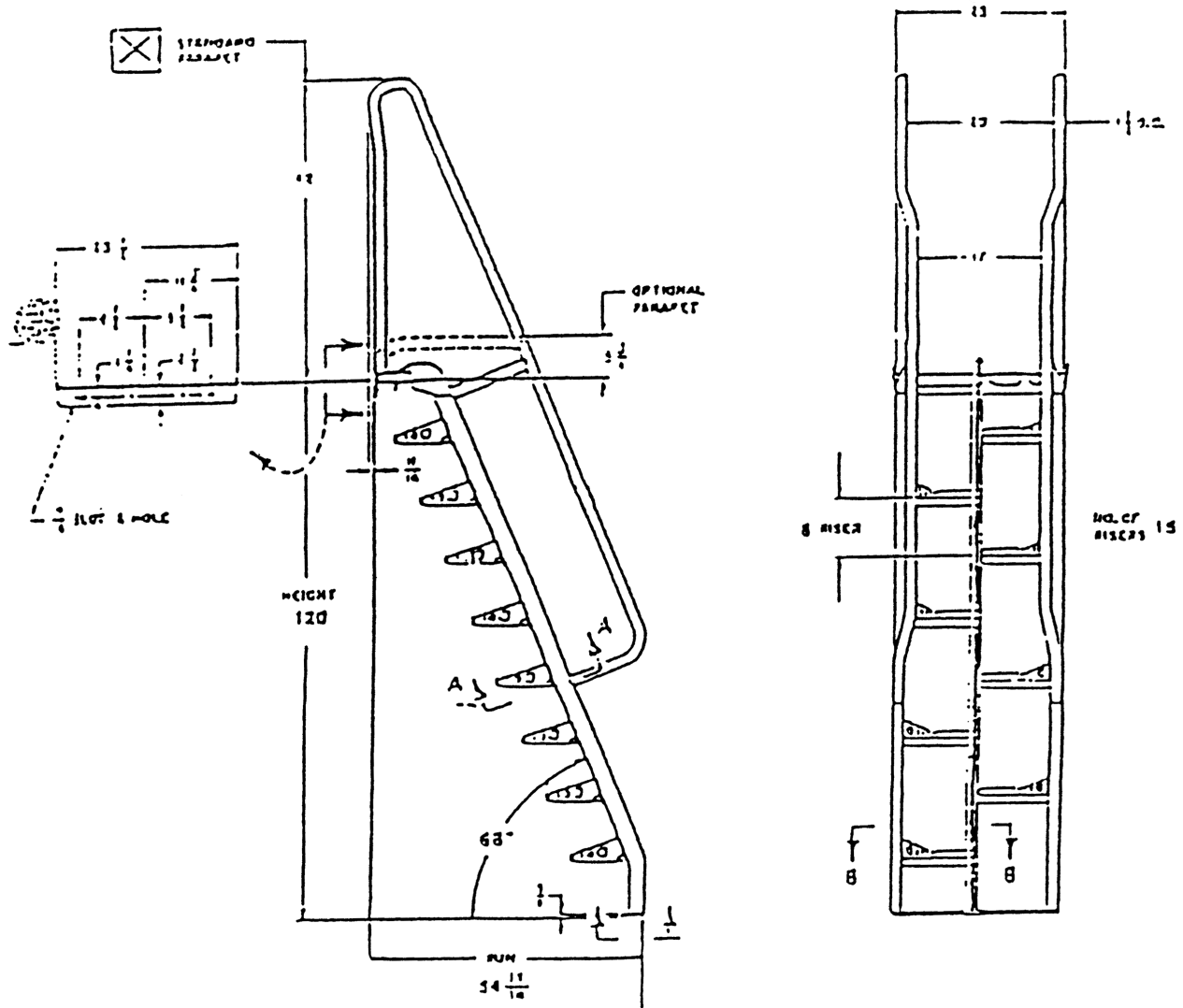


Figure D-11

AMENDATORY SECTION (Amending WSR 15-24-100, filed 12/1/15, effective 1/5/16)

WAC 296-24-85501 Dockboards (bridge plates). (((+ You must ensure that)) You must ensure:

- (1) Portable and powered dockboards are strong enough to carry the load imposed on them.
- (2) ((You must ensure that portable dockboards are secured in position, either by being anchored or equipped with devices which will prevent their slipping.
- (3) You must ensure that powered dockboards are designed and constructed in accordance with Commercial Standard CS202-56 (1961) "Industrial Lifts and Hinged Loading Ramps" published by the U.S. Department of Commerce.
- (4) You must ensure that handholds, or other effective means, are provided on portable dockboards to permit safe handling.

(5) You must ensure that positive protection is provided to prevent railroad cars from being moved while dockboards or bridge plates are in position. Dockboards put into initial service on or after October 1, 2020, are designed, constructed, and maintained to prevent employees from running off the dockboard edge.

EXCEPTION: When the employer demonstrates there is no hazard of employees running off the dockboard edge, WAC 296-24-75005(1) does not apply.

(3) Portable dockboards are secured by anchoring them in place or using equipment or devices that prevent the dockboard from moving out of a safe position. When the employer demonstrates that securing the dockboard is not feasible, the employer must ensure there is sufficient contact between the dockboard and the surface to prevent the dockboard from moving out of a safe position.

(4) Powered dockboards are designed and constructed in accordance with Commercial Standard CS202-56 (1961)

"Industrial Lifts and Hinged Loading Ramps" published by the U.S. Department of Commerce, or newer standards as effective as the code such as:

(a) American National Standards Institute (ANSI)/ Industrial Truck Standards Development Foundation (ITS DF) B56.1-2012, Trucks, Low and High Lift, Safety Standard (B56.1-2012).

(b) ASME/ANSI MH14.1-1987, Loading Dock Levelers and Dockboards (MH14.1-1987) (Ex. 371).

(c) ANSI MH30.1-2007, National Standard for the Safety Performance, and Testing of Dock Loading Devices (MH30.1-2007) (Ex. 372).

(d) ANSI MH30.2-2005, Portable Dock Loading Devices: Standards, Performance, and Testing (MH30.2-2005) (Ex. 20).

(5) Positive protective measures, such as wheel chocks or sand shoes, are used to prevent the transport vehicle (e.g., a truck, semi-trailer, trailer, or rail car) or container on which a dockboard is placed, from moving while employees are on the dockboard.

(6) You must ensure that handholds, or other effective means, are provided on portable dockboards to permit safe handling.

NEW SECTION

The following sections of the Washington Administrative Code are decodified and recodified as follows:

Old WAC Number	New WAC Number
296-24-765	296-24-740
296-24-76515	296-24-74020
296-24-76555	296-24-74030
296-24-855	296-24-7500
296-24-85501	296-24-75006

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-24-73507	Covers and guardrails.
WAC 296-24-73511	Steam pipes.
WAC 296-24-750	Guarding floor and wall openings and holes.
WAC 296-24-75001	Terms.
WAC 296-24-75003	Protection for floor openings.
WAC 296-24-75005	Protection for wall openings and holes.
WAC 296-24-75007	Protection of open-sided runways.
WAC 296-24-75011	Railing, toeboards, and cover specifications.
WAC 296-24-76501	Terms.
WAC 296-24-76503	Application of requirements.
WAC 296-24-76507	Stair strength.

WAC 296-24-76509	Stair width.
WAC 296-24-76511	Angle of stairway rise.
WAC 296-24-76513	Stair treads.
WAC 296-24-76519	Vertical clearance.
WAC 296-24-76521	Open risers.
WAC 296-24-76523	General.
WAC 296-24-85503	Forging machine area.
WAC 296-24-85505	Veneer machinery.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-099 Definitions. Cage. An enclosure mounted on the side rails of a fixed ladder or fastened to a structure behind the fixed ladder that ~~((encircles))~~ is designed to surround the climbing space of a fixed ladder. It ~~((is fastened to the ladder side rails or to the structure and))~~ may also be called a "cage guard" or "basket guard."

Carrier. The track of a ladder safety system that consists of a flexible cable or rigid rail attached, or immediately adjacent, to a fixed ladder.

Cleat. ~~((A ladder crosspiece used in climbing or descending. Also called a step or rung.))~~ See "rung."

Combination ladder. See "special-purpose ladder."

Competent person. Is an individual knowledgeable of ladders, including the manufacturer's recommendations and instructions for the proper use, inspection, and maintenance; and who is capable of identifying existing and potential ladder hazards; and who has the authority to take prompt corrective action to eliminate those hazards; and who is knowledgeable of the rules contained in this part regarding the installation, use, inspection, and maintenance of ladders.

Equivalent. Alternative design, material, or method to protect against a hazard. You have to demonstrate it provides an equal or greater degree of safety for employees than the method, material, or design specified in the rule.

Extension ladder. A nonself-supporting portable ladder ~~((consisting of two or more sections. The sections travel in guides or brackets that allow the length of the ladder to be changed. The size is designated by the sum of the lengths of each section, measured along the side rails))~~ which is adjustable in length.

Failure. The ladder or ladder component loses the ability to carry the load, breaks, or separates into component parts.

Fastenings. Devices to attach a ladder to a structure, building, or equipment.

Fixed ladder. A ladder permanently attached to a structure, building, or equipment. Fixed ladders include individual-rung ladders, but not ship stairs, step bolts, or manhole steps.

Grab bar(s). ~~((Handholds placed adjacent to or as an extension above ladders for the purpose of providing access beyond the limits of the ladder.))~~ An individual horizontal or vertical handhold installed to provide access above the height of the ladder.

Job-made ladder. A ladder that is made, not commercially manufactured, to fit a specific job situation. They are for temporary use until a particular phase of construction is completed or until permanent stairways or fixed ladders are ready to use.

Individual-rung/step ladder. A fixed ladder consisting of individual steps or rungs mounted directly to the side or wall of the structure, building, or equipment. An individual-rung ladder does not include manhole steps.

Ladder. A device having steps, rungs, or cleats that can be used to climb or descend.

Ladder safety device. Any device, other than a cage or well, designed to ~~((arrest the fall of a person using a fixed ladder))~~ eliminate or reduce the possibility of falling from a ladder. A ladder safety device usually consists of a carrier, safety sleeve, lanyard, connectors, and body harness.

Ladder type. The designation that identifies the maximum intended load (working load) of the ladder. Ladder types are as follows:

Duty Rating	Ladder Type	Use	Maximum Intended Load (pounds)
Extra Heavy-Duty	IA	Industry, utilities, contractors	300
Heavy-Duty	I	Industry, utilities, contractors	250
Medium-Duty	II	Painters, offices, light maintenance	225
Light-Duty	III	General household use	200

Landing. Any area such as the ground, roof, or platform that provides access or egress to a ladder.

Manhole steps. Steps that are individually attached to, or set into, the wall of a manhole structure.

Maximum intended load. The total load of all persons, equipment, tools, materials, transmitted loads, and other loads reasonably anticipated to be applied to a ladder or ladder component at any one time. Sometimes referred to as working load.

Mobile. Manually propelled or moveable.

Mobile ladder stand (ladder stand). A mobile, fixed-height, self-supporting ladder that usually consists of wheels or casters on a rigid base and steps leading to a top step. A mobile ladder stand also may have handrails and is designed for use by one employee at a time.

Mobile ladder stand platform. A mobile, fixed-height, self-supporting unit having one or more standing platforms that are provided with means of access or egress.

Pitch. The included angle between the horizontal and the ladder, measured on the opposite side of the ladder from the climbing side.

Portable ladder. A ladder that can be readily moved or carried.

Qualified. Describes a person who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project.

Reinforced plastic. A plastic that has high-strength fillers embedded in the base resin to increase strength.

Reinforced plastic ladder. A ladder whose side rails are reinforced plastic. The crosspieces, hardware, and fasteners may be made of metal or other suitable material.

Rung. A ladder crosspiece used in climbing or descending. Also called a cleat or step.

Side-step ladder. A fixed ladder that requires ~~((a person))~~ an employee to step ((to the side of)) sideways from the ladder ((side rails)) in order to reach ((the)) a walking-working surface, such as a landing.

Single ladder. A nonself-supporting portable ladder, nonadjustable in length, consisting of one section. The size is designated by the overall length of the side rail.

Single-rail ladder. A portable ladder with crosspieces mounted on a single rail. Single-rail ladders are prohibited from use.

Special-purpose ladder. A portable ladder that ~~((is made))~~ by ((modifying or combining)) design ((or construction features of the general purpose types of ladders)) can be used as a stepladder, extension ladder, trestle ladder, stairway ladder, etc., in order to adapt the ladder to special or specific uses. The components of a combination ladder also may be used separately as a single ladder.

Step. ~~((A ladder crosspiece used in climbing or descending. Also called a cleat or rung.))~~ See "rung."

Stepladder. A self-supporting portable ladder, nonadjustable in length, with flat steps and hinged at the top. The size is designated by the overall length of the ladder measured along the front edge of the side rails.

Step bolt. (Also referred to as "pole step") means a bolt or rung attached at intervals along a structural member used for foot placement and as a handhold when climbing or standing.

Stepstool. A self-supporting, portable ladder that has flat steps and side rails. For purposes of the final rule, stepstool includes only those ladders that have a fixed height, do not have a pail shelf, and do not exceed thirty-two inches (81 cm) in overall height to the top cap, although side rails may extend above the top cap. A stepstool is designed so an employee can climb and stand on all of the steps and the top cap.

Through ladder. A fixed ladder that ~~((requires a person))~~ allows an employee to step between the side rails of the ladder to reach ((the)) a walking-working surface, such as a landing.

Trestle ladder. A self-supporting portable ladder, nonadjustable in length, consisting of two sections hinged at the top to form equal angles with the base. The size is designated by the length of the side rails measured along the front edge.

Well. A permanent, complete walled enclosure around a fixed ladder ((that provides a person climbing the ladder with the same protection as a cage)).

Working length. The length of a nonself-supporting ladder, measured along the rails, from the base support point of the ladder to the point of bearing at the top.

AMENDATORY SECTION (Amending WSR 16-23-141, filed 11/22/16, effective 12/23/16)

WAC 296-876-100 Scope. This chapter applies to portable and fixed ladders(=) (including job-made wooden ladders), mobile ladder stands, and mobile ladder stand platforms. For ((requirements related to mobile ladder stands or rolling ladders, please refer to WAC 296-874-20024 Make sure stairway-type ladders meet these requirements)) fall arrest harness, rope/cable grab, and similar requirements related to ladder safety systems which are used on fixed ladders (see the unified fall protection rule, chapter 296-880 WAC).

EXEMPTION: This chapter does not apply to:

1. Portable ladders used by the fire services for fire combat that are covered by safety standards for firefighters, chapter 296-305 WAC;
2. Ladders used in other emergency training, and operations like rescue, and tactical law enforcement;
3. Agriculture activities covered by safety standards for agriculture, chapter 296-307 WAC;
4. Ladders designed into, or is an integral part of machines or equipment;
5. Where noted, "General Industry Only," these requirements do not yet apply to construction chapter 296-155 WAC, maritime chapter 296-56 WAC or shipyard activities chapter 296-304 WAC.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-30005 Condition and inspection. (1) You must keep portable ladders in good, usable condition. Good, usable condition includes, but is not limited to:

- (a) Joints between the steps or rungs and the side rails are tight.
- (b) Rungs, cleats, or steps are not bent, broken, or missing.
- (c) Side rails are not bent, broken, or split.
- (d) All bolts and rivets are in place and secure.
- (e) Hardware, fittings, and accessories are securely attached and working properly.
- (f) Ropes are not frayed or badly worn.
- (g) Moveable parts operate freely without binding or excessive play.
- (h) Safety feet and other auxiliary equipment are not excessively worn.
- (i) Metal components are not corroded.
- (j) There are no other faulty or defective components.
- (k) Rungs and steps of portable metal ladders are corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize the possibility of slipping.
- (l) Each stepladder or combination ladder used in a stepladder mode is equipped with a metal spreader or locking

device that securely holds the front and back sections in an open position while the ladder is in use.

(m) You must maintain portable ladder surfaces free of puncture and laceration hazards.

(n) You must ensure portable ladder rungs, steps, and cleats are parallel, level, and uniformly spaced when the ladder is in position for use.

(2) You must make sure wood ladders are not coated with an opaque covering except for the minimum amount necessary for identification and warning information which may be placed on one face only of a side rail.

(3) You must have ((a competent person)) employees inspect ((a) portable ladders, as follows:

(a) Competent person when required by Table 1, Ladder Inspection Criteria; and

(b) ((After any other occurrence that could affect safe use.)) Trained ladder user, prior to the user's initial use in each shift, and as necessary during the use to identify defects or damage that may occur during a work shift after the initial check. For example, if a ladder tips over, falls off a structure (e.g., roof) or vehicle, is struck by an object (e.g., vehicle or machine), or used in a corrosive environment, evidence of this damage would necessitate the authorized ladder user to initiate a ladder competent person inspection to determine whether the ladder is still safe to use.

(4) You must make sure any ladder with structural damage or other hazardous defect is:

(a) Marked to identify it as defective or tagged with "do not use" or similar language; and

(b) Removed from service.

Note: Ladders subjected to certain acids or alkali materials may experience chemical corrosion and a reduction in strength. Consult the manufacturer or a qualified person prior to use.

**Table 1
Ladder Inspection Criteria**

When the ladder is:	Do the following:
First placed into service ((and periodically)) <u>as necessary</u> while in service	Inspect the ladder for visible defects, including, but not limited to: <ol style="list-style-type: none"> 1. Working parts; and 2. Rung or step connections to the side rails.
Damaged by impact or tips over	<ol style="list-style-type: none"> 1. Visually inspect the ladder for dents, bends, cracks or splits 2. Check: <ol style="list-style-type: none"> a. Rung or step connections to the side rails. b. Hardware connections. c. Rivets for shear damage. d. All other components.
Exposed to excessive heat such as a fire	<ol style="list-style-type: none"> 1. Visually inspect the ladder for damage. 2. Test for deflection and strength characteristics using the "in-service use tests" contained in the appropriate ANSI. <p>EXEMPTION: Job-made wooden ladders are not to be subjected to load or impact tests. Those tests may weaken lumber components or fasteners, causing hidden damage that could result in sudden failure during use.</p>

(5) You must ensure stepstools have a minimum clear width of ten and one-half inches (26.7 cm).

(6) You must ensure portable ladder rungs, steps, and cleats have a minimum clear width of eleven and one-half inches (29 cm).

EXEMPTION: The minimum clear width does not apply to ladders with narrow rungs that are not designed to be stepped on, such as those located on the tapered end of orchard ladders and similar ladders.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

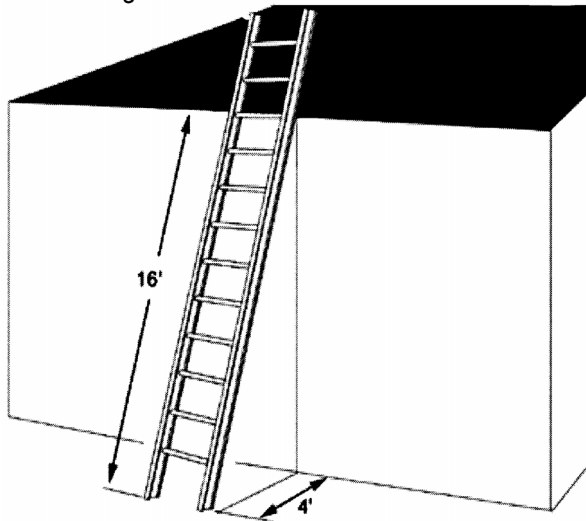
WAC 296-876-40020 Set-up. (1) You must set up non-self-supporting ladders at a safe angle. The ladder is set at the proper angle when the horizontal distance from the top support to the foot of the ladder is approximately one-quarter the working length of the ladder.

(2) You must set up job-made ladders with spliced side rails so that the horizontal distance from the top support to the foot of the ladder is not greater than one-eighth the working length of the ladder.

(3) You must set up the top of a nonself-supporting ladder so that both side rails are supported, unless the ladder is equipped with a single support attachment.

Note:

Safe ladder angle.



AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-40025 Climbing and descending. (1) You must have ~~((both hands free to hold on to the ladder))~~ employees use at least one hand to grasp the ladder when climbing up and down it.

(2) You must face the ladder when climbing or descending.

(3) You must keep ladders free of oil, grease, or other slippery materials.

(4) You must keep the area around the top and bottom of ladders clear.

(5) You must make sure single-rail ladders are not used.

(6) You must make sure no employee carries any object or load that could cause the employee to lose balance and fall while climbing up or down the ladder.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-60025 Ladder surfaces. ~~((You must make sure all parts and surfaces of the ladder are free of splinters, sharp edges, burrs, or projections that may be hazardous to persons using the ladder.))~~ See the fixed ladder inspection requirements under WAC 296-876-70010 Inspection and repair.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-60030 Rungs, cleats and steps. (1) You must make sure rungs have a minimum diameter as follows:

(a) Rungs of wood ladders are at least one and one-eighth inches.

(b) Rungs of metal ladders subject to unusually corrosive exposures, such as individual metal rungs imbedded in concrete which serve as access to pits and to other areas under floors, are at least one inch.

(c) Rungs of all other metal ladders are at least three-quarters inch.

(2) You must make sure rungs, cleats, and steps are ~~((all~~ of the following:

(a) Parallel.

(b) Level.

(c) ~~Uniformly spaced throughout the length of the ladder.~~

~~((d))~~ spaced so the distance from the centerline of one rung to the centerline of the next rung does not exceed ~~((twelve))~~ fourteen inches, or is less than ten inches (see Figure D-2 in this section). Ladder rungs in elevator shafts must be spaced not less than six inches (15 cm) apart, and not more than sixteen and one-half inches (42 cm) apart, as measured rung from rung centerline to the next centerline (along the ladder side rails).

(Exception: The vertical distance from the ground, floor, or roof at the access level to the first rung may be adjusted within a range of fourteen inches.)

(3) You must make sure the minimum inside clear width of the stepping surface of rungs, steps, or cleats is sixteen inches (see Figure D-2 below).

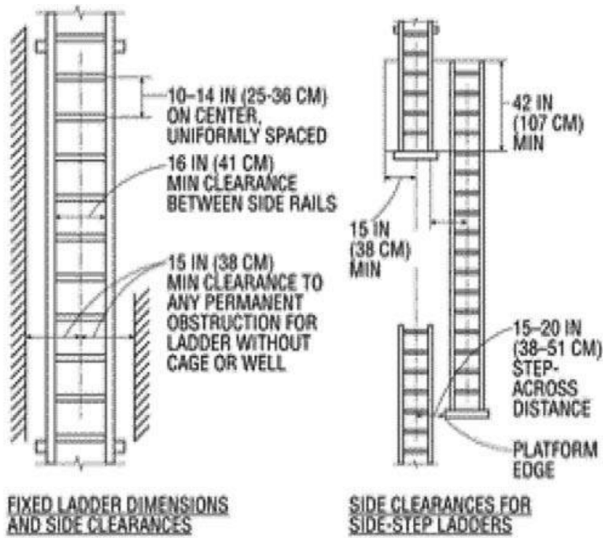


Figure D-2 - Side-Step Fixed Ladder Sections

(4) You must make sure individual rung or step-type ladders have rungs or steps that are shaped so that a person's foot cannot slide off the end (see Figure D-4 below).

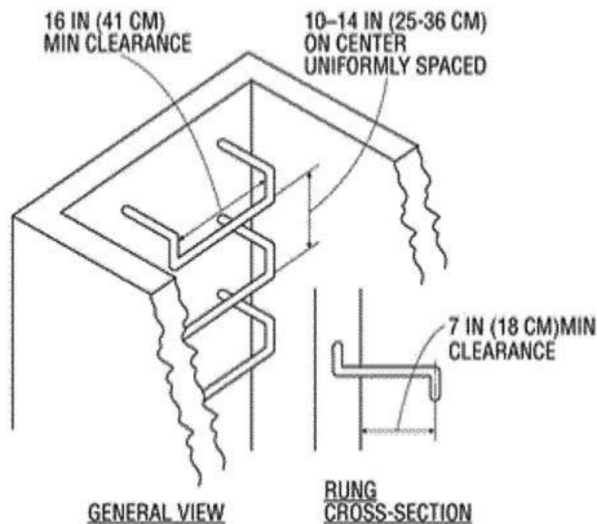


Figure D-4 - Individual Rung Ladder

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-60040 Clearances. (1) You must make sure ladders without wells or cages are at least thirty inches from the nearest permanent object on the climbing side, measured perpendicular to the ladder from the centerline of the rungs, cleats, or steps.

EXEMPTION: When unavoidable obstructions are encountered, the minimum perpendicular clearance between the centerline of the rungs, cleats, or steps and an obstruction on the climbing side may be reduced to twenty-four inches if a deflection device is installed to guide persons around the obstruction.

(2) You must make sure ladders without wells or cages have a clear width from the nearest permanent object on each side of the ladder of at least fifteen inches, measured from the center of the rungs, cleats, or steps.

(3) You must make sure the distance from the centerline of the rungs, cleats, or steps to the nearest permanent object in back of the ladder is at least seven inches.

EXEMPTION: Fixed ladders in elevator pits may reduce the minimum clearance from the ladder to the nearest permanent object in back of the ladder to four and one-half inches.

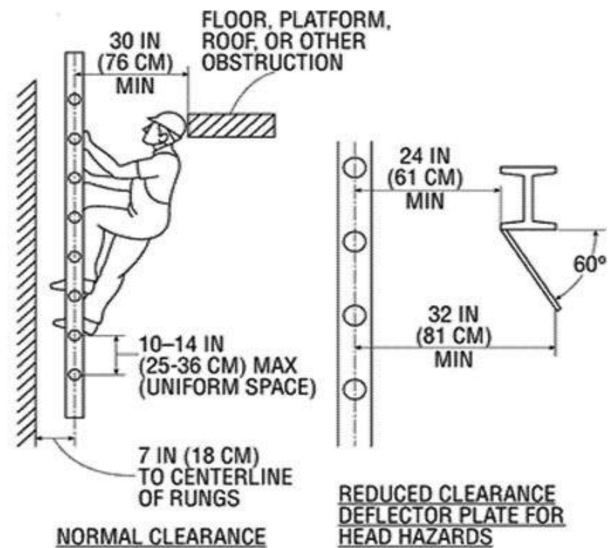


Figure D-5 - Fixed Ladder Clearances

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-60045 Step-across distance. (1) You must make sure a through ladder at the point of access or egress has a step-across distance, measured from the centerline of the steps or rungs to the nearest edge of the landing area, that is:

- (a) Not less than seven inches; or
- (b) Greater than twelve inches.

(2) You must make sure a side-step ladder at the point of access or egress has a step-across distance, measured from the ~~((side rail))~~ centerline of the ladder to the nearest edge of the access point(s) of the landing area or platform, that is:

- (a) Not less than ~~((seven))~~ fifteen inches; or
- (b) Greater than ~~((twelve))~~ twenty inches.

AMENDATORY SECTION (Amending WSR 16-23-141, filed 11/22/16, effective 12/23/16)

WAC 296-876-60050 Extensions and grab bars. (1)

You must make sure the side rails of through or side-step ladders extend forty-two inches above the top of the access level or landing platform.

Note: For a parapet ladder, the access level is:

1. The roof if the parapet is cut to permit passage through it; or
2. The top of the parapet if it is continuous and uncut.

(2) You must make sure the extension of a through ladder above the access level or landing platform has:

- (a) Steps or rungs omitted from the extension; and
- (b) Clearance between the side rails that is:
 - (i) Not less than twenty-four inches; or
 - (ii) Greater than thirty inches.

EXEMPTION: The maximum clearance between side rails of the extension may be increased to thirty-six inches if the ladder has a ladder safety device.

(3) You must make sure side-step ladders have the steps or rungs and the side rails continuous in the extension (see Figure D-2 in WAC 296-876-60030).

(4) You must make sure individual rung-step ladders are extended at least forty-two inches above the access level or landing platform by:

- (a) Continuing the rung spacings as horizontal grab bars; or
- (b) Providing vertical grab bars that have the same lateral spacing as the vertical legs of the rungs.

EXEMPTION: Extensions are not required for individual rung-step ladders with access openings through a manhole or hatch.

(5) You must make sure grab bars:

(a) Are at least four inches from the nearest permanent object in back of the grab bar, measured from the centerline of the grab bar; ~~((and))~~

(b) Do not extend beyond the rungs on the climbing side of the ladder; and

(c) The minimum size (cross-section) of grab bars is the same size as the rungs of the ladder.

EXEMPTION: WAC 296-876-60050 (5)(c) applies to general industry only. See the exemption list in the scope section of WAC 296-876-100 for more information.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-60055 Hatches. ~~((1) You must make sure counterbalanced hatch covers))~~ When a fixed ladder terminates at a hatch (see Figure D-3 below), you must ensure the hatch cover:

(1) Opens with sufficient clearance to provide easy access to or from the ladder.

EXEMPTION: WAC 296-875-60055(1) applies to general industry only. See the exemption list in the scope of WAC 296-876-100 for more information.

(2) Opens at least seventy degrees from the horizontal if the hatch is counterbalanced.

~~((2))~~ (3) You must make sure the inside clear width of the hatch is a nominal thirty inches.

~~((3))~~ (4) You must make sure the distance from the centerline of the rungs or cleats to the edge of the hatch opening on the climbing side, measured perpendicular to the ladder, is:

- (a) Not less than twenty-four inches; or
- (b) Greater than thirty inches.

~~((4))~~ (5) You must make sure hatches with clearance on the climbing side of the ladder that is between twenty-four and twenty-seven inches are fitted with a deflector plate mounted at an angle of sixty degrees from the horizontal.

Note: The springs or other counterbalance mechanisms for the hatch may project into the hatch opening provided they do not reduce clearance to less than twenty-four inches and a deflector plate is installed to guide persons around the obstruction.

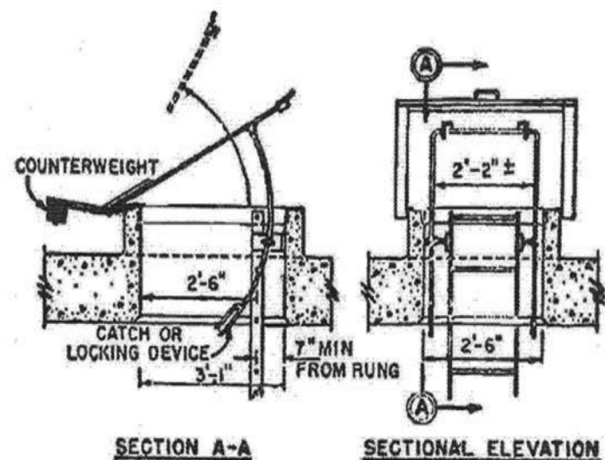


Figure D-3 - Example of Counterbalanced Hatch Cover at Roof

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-60065 Protective structures and equipment.

Note: DOSH and federal OSHA plan to phase out the recognition of ladder cages as effective means of fall-protection in the requirements below. New fixed ladders constructed after October 1, 2020, must incorporate ladder safety systems. Employers have until October 1, 2040, to equip preexisting fixed ladders with ladder safety systems/personal fall arrest systems.

(1) You must make sure a cage, well, or ladder safety system is provided if:

- (a) The length of climb is less than twenty-four feet; and
- (b) The top of the ladder is more than twenty-four feet above the ground, floor, or roof.

(2) You must make sure a ladder with a single length of climb that is equal to or greater than twenty-four feet is either:

- (a) Equipped with a ladder safety device; or
- (b) Uses multiple ladder sections and meets all of the following:
 - (i) Each section is provided with a cage or well.

- (ii) The length of climb of any ladder section is not greater than fifty feet.
- (iii) Each ladder section is offset from adjacent sections.
- (iv) Landing platforms are provided at maximum intervals of fifty feet.

EXEMPTION: During construction activities, a self-retracting lifeline with landing platforms provided at maximum intervals of one hundred fifty feet may be used instead of a ladder safety device or multiple ladder sections.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-60080 Ladder safety devices.

Notes:

- Requirements for ladder safety devices, also referred to as ladder safety systems, are described below. Ladder safety devices typically consist of a carrier (see definitions in WAC 296-876-099), safety sleeve or carrier/cable/rope grab, lanyard, connectors, and full body harness (typically with frontal d-ring). The requirements below apply to the combination of components in use.
- Where an employer elects to use automatic self-retracting lifelines (SRL); and the SRL is installed, used, inspected, and maintained consistent with the manufacturer's instructions and terms of use, the SRL would fulfill the employer's ladder safety device obligations.
- Information related to fall protection requirements (fall arrest requirements, inspection criteria, training requirements, etc.) are found in DOSH's Safety Standards for Fall Protection (chapter 296-880 WAC).

(1) You must make sure ladder safety devices and related support systems meet all of the following:

(a) Are capable of withstanding, without failure, the test drop of a five-hundred-pound weight for a free-fall distance of eighteen inches.

(b) The device does not require a person to continually hold, push, or pull any part of the device and allows them to have both hands free to grip the ladder.

(c) In the event of a fall, the device:

(i) Is activated within two feet; and

(ii) Limits the fall velocity to seven feet per second or less.

(d) Uses a connection between the carrier or lifeline and the point of attachment on the full body harness that is not longer than nine inches.

(2) You must make sure ladder safety devices with rigid carriers have mountings that:

(a) Are attached at each end of the carrier; and

(b) Have intermediate mountings that are all of the following:

(i) Spaced along the entire length of the carrier in accordance with the manufacturer's recommendations.

(ii) Installed within one foot below each splice on the carrier.

(iii) Have a maximum distance between mountings that is twenty-five feet or less.

(3) You must make sure ladder safety devices with flexible carriers have:

(a) Mountings that are attached at each end of the carrier; and

(b) Cable guides that are spaced at least twenty-five feet, but no further than forty feet, apart along the entire length of the carrier.

(4) You must make sure the design and installation of mountings and cable guides does not reduce the design strength of the ladder.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-70010 Inspection and repair. (1) You must keep ladders in safe condition.

(2) You must have ~~((a competent person))~~ employees inspect ~~((a))~~ fixed ladders for visual defects, as follows:

(a) ~~((Periodically; and))~~ Competent person, when required by Table 1 (see WAC 296-876-30005), Ladder inspection criteria.

(b) ~~((After any occurrence that could affect safe use:))~~ Trained ladder user, prior to the user's initial use in each shift, and as necessary during the use to identify defects or damage that may occur during a work shift after the initial check. For example, if a ladder tips over, falls off a structure (e.g., roof) or vehicle, is struck by an object (e.g., vehicle or machine), or used in a corrosive environment, evidence of this damage would necessitate the authorized ladder user to initiate a ladder competent person inspection to determine whether the ladder is still safe to use.

EXEMPTION: WAC 296-876-70010 (2)(c) applies to general industry only. See the exemption list in the scope section of this chapter (WAC 296-876-100) for more information.

(3) You must make sure any ladder with structural damage or other hazardous defect is immediately removed from service.

Notes:

1. Structural damage includes, but is not limited to, any of the following:
 - a. Broken or missing rungs, cleats, or steps.
 - b. Broken or split rails.
 - c. Corroded components.
 - d. Bolts and welds missing or not secure.
2. A ladder is considered to be removed from service if any of the following are done:
 - a. It is marked to identify it as defective.
 - b. It is tagged with "do not use" or similar language.
 - c. It is blocked so that it cannot be used, for example, by using a plywood attachment that spans several rungs.

(4) You must make sure repairs restore the ladder to a condition meeting its original design criteria.

(5) You must ensure wooden fixed ladders are not coated with any material that may obscure structural defects.

(6) You must maintain fixed ladder parts and surfaces free of splinters, sharp edges, burrs, projections, puncture, and laceration hazards that may be hazardous to persons using the ladder.

(7) You must ensure fixed ladders are capable of supporting their maximum intended load.

(8) You must ensure fixed ladder rungs, steps, and cleats are parallel, level, and uniformly spaced.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-80010 Climbing and descending. (1) You must have ~~((both hands free to hold on to the ladder))~~ employees use at least one hand to grasp the ladder when climbing up and down it.

(2) You must face the ladder when climbing or descending.

(3) You must keep ladders free of oil, grease, or other slippery materials.

(4) You must make sure no employee carries any object or load that could cause the employee to lose balance and fall while climbing up or down the ladder.

(5) You must make sure fixed ladders are used only for the purposes for which they were designed.

NEW SECTION

WAC 296-876-90005 Step bolt requirements. In addition to the walking-working surface rule (WAC 296-24-73505) requirements, and the relevant fixed ladder standard requirements in this chapter, you must ensure:

(1) Each step bolt installed on or after October 1, 2020, in an environment where corrosion may occur is constructed of, or coated with, material that protects against corrosion.

(2) Each step bolt is designed, constructed, and maintained to prevent the employee's foot from slipping off the end, or side edge, of the step bolt.

(3) Step bolts are uniformly spaced at a vertical distance of not less than twelve inches (30 cm) and not more than eighteen inches (46 cm) apart, measured center to center (see Figure D-6 of this section). The spacing from the entry and exit surface to the first step bolt may differ from the spacing between the other step bolts.

(4) Each step bolt has a minimum clear width of four and one-half inches (11 cm).

(5) The minimum perpendicular distance between the centerline of each step bolt to the nearest permanent object in back of the step bolt is seven inches (18 cm). When the employer demonstrates that an obstruction cannot be avoided, the distance must be at least four and one-half inches (11 cm).

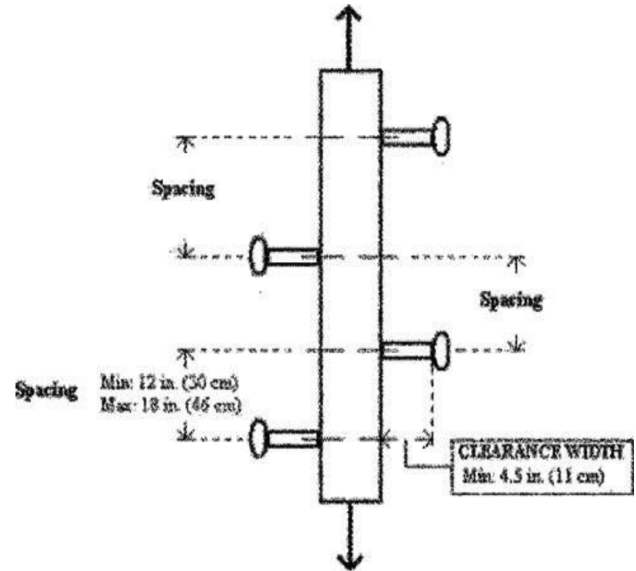


Figure D-6 - Step Bolt Spacing

(6) Each step bolt installed before October 1, 2020, is capable of supporting its maximum intended load.

(7) Each step bolt installed on or after October 1, 2020, is capable of supporting at least four times its maximum intended load.

(8) Each step bolt is inspected at the start of the work shift and maintained in accordance with the walking-working surface rule (WAC 296-24-73505).

(9) Each step bolt installed before October 1, 2020, is capable of supporting its maximum intended load.

(10) Each step bolt installed on or after October 1, 2020, is capable of supporting at least four times its maximum intended load.

(11) Each step bolt is inspected at the start of the work shift and maintained in accordance with the walking-working surface rule (WAC 296-24-73505).

NEW SECTION

WAC 296-876-90010 Manhole step requirements. In addition to the walking-working surface rule (WAC 296-24-73505) requirements and the relevant fixed ladder standard requirements (chapter 296-876 WAC), you must ensure:

(1) Each manhole step is capable of supporting its maximum intended load.

(2) Rungs and steps of manhole entry ladders that are supported by the manhole opening have a minimum clear width of nine inches (23 cm).

(3) Each manhole step installed on or after January 17, 2017:

(a) Has a corrugated, knurled, dimpled, or other surface that minimizes the possibility of an employee slipping.

(b) Is constructed of, or coated with, material that protects against corrosion if the manhole step is located in an environment where corrosion may occur.

(c) Has a minimum clear step width of ten inches (25 cm).

(d) Is uniformly spaced at a vertical distance not more than sixteen inches (41 cm) apart, measured center to center between steps. The spacing from the entry and exit surface to the first manhole step may differ from the spacing between the other steps.

(e) Has a minimum perpendicular distance between the centerline of the manhole step to the nearest permanent object in back of the step of at least four and one-half inches (11 cm).

(f) Is designed, constructed, and maintained to prevent the employee's foot from slipping or sliding off the end.

(4) The employer must ensure that each manhole step is inspected at the start of the work shift and maintained in accordance with the walking-working surface rule (WAC 296-24-73505).

NEW SECTION

WAC 296-876-910 Mobile ladder stands and mobile ladder stand platforms.

Summary

Your responsibility: To meet these requirements for mobile ladder stands and mobile ladder stand platforms.

You must meet the requirements...	in this section:
General requirements	WAC 296-876-91005
Design requirements for mobile ladder stands	WAC 296-876-91010
Design requirements for mobile ladder stand platforms	WAC 296-876-91015

NEW SECTION

WAC 296-876-91005 General requirements. You must ensure:

(1) Mobile ladder stands and platforms have a step width of at least sixteen inches (41 cm).

(2) Steps and platforms of mobile ladder stands and platforms are slip resistant. Slip-resistant surfaces must be either an integral part of the design and construction of the mobile ladder stand and platform, or provided as a secondary process or operation, such as dimpling, knurling, shotblasting, coating, spraying, or applying durable slip-resistant tapes.

(3) Mobile ladder stands and platforms are capable of supporting at least four times their maximum intended load.

(4) Load bearing wheels or casters are capable of supporting their proportional share of four times the maximum intended load, plus their proportional share of the unit's weight.

(5) Unless otherwise specified in this section, mobile ladder stands and platforms with a top step height of four feet (1.2 m) or above have handrails with a vertical height of twenty-nine and one-half inches (75 cm) to thirty-seven inches (94 cm), measured from the front edge of a step. Removable gates or nonrigid members, such as chains, may be used instead of handrails in special-use applications.

(6) The maximum work-surface height of mobile ladder stands and platforms does not exceed four times the shortest base dimension, without additional support. For greater heights, outriggers, counterweights, or comparable means that stabilize the mobile ladder stands and platforms and prevent overturning must be used.

(7) Mobile ladder stands and platforms that have wheels or casters are equipped with a system to impede horizontal movement when an employee is on the stand or platform.

(8) You must ensure mobile ladder stands and platforms are not moved while an employee is on them.

NEW SECTION

WAC 296-876-91010 Design requirements for mobile ladder stands. You must ensure:

(1) Steps are uniformly spaced and arranged, with a rise of not more than ten inches (25 cm) and a depth of not less than seven inches (18 cm). The slope of the step stringer to which the steps are attached must not be more than sixty degrees, measured from the horizontal.

(2) Mobile ladder stands with a top step height above ten feet (3 m) have the top step protected on three sides by a handrail with a vertical height of at least thirty-six inches (91 cm); and top steps that are twenty inches (51 cm) or more, front to back, have a midrail and toeboard. Removable gates or nonrigid members, such as chains, may be used instead of handrails in special-use applications.

(3) The standing area of mobile ladder stands is within the base frame.

NEW SECTION

WAC 296-876-91015 Design requirements for mobile ladder stand platforms. You must ensure:

(1) The steps of mobile ladder stand platforms meet the requirements of WAC 296-876-91010(1). When the employer demonstrates that the requirement is not feasible, steeper slopes or vertical rung ladders may be used, provided the units are stabilized to prevent overturning.

(2) Mobile ladder stand platforms with a platform height of four to ten feet (1.2 m to 3 m) have, in the platform area, handrails with a vertical height of at least thirty-six inches (91 cm) and midrails.

(3) All ladder stand platforms with a platform height above ten feet (3 m) have guardrails and toeboards on the exposed sides and ends of the platform.

(4) Removable gates or nonrigid members, such as chains, are only permitted to be used on mobile ladder stand platforms, instead of handrails and guardrails, in special-use applications.