

WSR 07-08-108
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health and Recovery Services Administration)
[Filed April 4, 2007, 9:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-22-054.

Title of Rule and Other Identifying Information: WAC 388-550-1050 Hospital services definitions.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on May 22, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 23, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on May 22, 2007.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by May 18, 2007, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-550-1050 in order to clarify and update existing definitions, add new definitions relating to inpatient and outpatient hospital services, specifically definitions pertaining to payment methodologies for inpatient hospital services, and repeal outdated definitions. In addition, the department is adding new language that states the department's hospital selective contracting program no longer exists for admissions on and after July 1, 2007.

Reasons Supporting Proposal: In 2005, ESSB 6090, recommended that a study be done by Navigant to look at the department's inpatient payment system and include recommendations on the design. This WAC section is written to incorporate into the definitions the results of the Navigant study, and to update information on the department's hospital coverage, rate-setting, and payment processes. At the same time and for the same reasons, the department is proposing rule making to reflect changes and new sections in chapter 388-550 WAC.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500.

Statute Being Implemented: RCW 74.09.500.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1342; Implementation and Enforcement: Larry Linn, P.O. Box 45502, Olympia, WA 98504-5502, (360) 725-1856.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has determined that the proposed rule will not create more than minor costs for affected small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Larry Linn, P.O. Box 45502, Olympia, WA 98504-5502, phone (360) 725-1856, fax (360) 753-9152, e-mail linnld@dshs.wa.gov.

March 30, 2007

Jim Schnellman, Chief
Office of Administrative Resources

AMENDATORY SECTION (Amending WSR 04-20-057, filed 10/1/04, effective 11/1/04)

WAC 388-550-1050 Hospital services definitions.

The following definitions and abbreviations (~~and~~)₂ those found in WAC 388-500-0005, Medical definitions, and definitions and abbreviations found in other sections of this chapter, apply to this chapter.

"Accommodation costs" means the expenses incurred by a hospital to provide its patients services for which a separate charge is not customarily made. These expenses include, but are not limited to, room and board, medical social services, psychiatric social services, and the use of certain hospital equipment and facilities.

"Acquisition cost (AC)" means the cost of an item excluding shipping, handling, and any applicable taxes as indicated by a manufacturer's invoice.

"Acute" means a medical condition of severe intensity with sudden onset. See WAC 388-550-2511 for the definition of "acute" for the acute physical medicine and rehabilitation (Acute PM&R) program.

"Acute care" means care provided for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by a health care professional in order to maintain their health status (see WAC 248-27-015).

"Acute physical medicine and rehabilitation (Acute PM&R)" means a comprehensive inpatient rehabilitative program coordinated by an interdisciplinary team at a department-approved rehabilitation facility. The program provides twenty-four-hour specialized nursing services and an intense level of therapy for specific medical conditions for which the client shows significant potential for functional improvement. Acute PM&R is a twenty-four hour inpatient comprehensive program of integrated medical and rehabilitative services provided during the acute phase of a client's rehabilitation.

"ADATSA/DASA assessment center" means an agency contracted by the division of alcohol and substance abuse (DASA) to provide chemical dependency assessment for clients and pregnant women in accordance with the alcoholism and drug addiction treatment and support act (ADATSA). Full plans for a continuum of drug and alcohol treatment services for pregnant women are also developed in ADATSA/DASA assessment centers.

"Add-on procedure(s)" means secondary procedure(s) that are performed in addition to another procedure.

"Administrative day" means a day of a hospital stay in which an acute inpatient level of care is no longer necessary, and noninpatient hospital placement is appropriate.

"Administrative day rate" means the statewide medic-aid average daily nursing facility rate as determined by the department.

"Admitting diagnosis" means the medical condition before study, which is initially responsible for the client's admission to the hospital, as defined by the international classification of diseases, 9th revision, clinical modification (ICD-9-CM) diagnostic code, or with the current published ICD-CM coding guidelines used by the department.

"Advance directive" means a document, ~~((such as a living will executed by a client. The advanced directive tells the client's health care providers and others the client's decisions regarding the client's medical care, particularly whether the client or client's representative wishes to accept or refuse extraordinary measures to prolong the client's life))~~ recognized under state law, such as a living will, executed by a client, that tells the client's health care providers and others about the client's decisions regarding his or her health care in the event the client should become incapacitated. (See WAC 388-501-0125.)

"Aggregate capital cost" means the total cost or the sum of all capital costs.

"Aggregate cost" means the total cost or the sum of all constituent costs.

"Aggregate operating cost" means the total cost or the sum of all operating costs.

"Alcoholism and drug addiction treatment and support act (ADATSA)" means the law and the state-~~((funded))~~ administered program it established which provides medical services for persons who are incapable of gainful employment due to alcoholism or substance addiction.

"Alcoholism and/or alcohol abuse treatment" means the provision of medical social services to an eligible client designed to mitigate or reverse the effects of alcoholism or alcohol abuse and to reduce or eliminate alcoholism or alcohol abuse behaviors and restore normal social, physical, and psychological functioning. Alcoholism or alcohol abuse treatment is characterized by the provision of a combination of alcohol education sessions, individual therapy, group therapy, and related activities to detoxified alcoholics and their families.

"All-patient DRG grouper (AP-DRG)" means a computer software program that determines the medical and surgical diagnosis related group (DRG) assignments.

"Allowable" means the calculated amount for payment, after exclusion of any "nonallowed service or charge," based on the applicable payment method before final adjustments, deductions, and add-ons.

"Allowed amount" means the initial calculated amount for any procedure or service, after exclusion of any "nonallowed service or charge," that the department allows as the basis for payment computation before final adjustments, deductions, and add-ons.

"Allowed charges" means the maximum amount for any procedure or service that the department allows as the basis for payment computation.

"Allowed covered charges" means the maximum amount of charges on a hospital claim recognized by the department as charges for "hospital covered service" and payment computation, after exclusion of any "nonallowed service or charge," and before final adjustments, deductions, and add-ons.

"Ambulatory surgery" means a surgical procedure that is not expected to require an inpatient hospital admission.

"Ancillary hospital costs" means the expenses incurred by a hospital to provide additional or supporting services to its patients during their hospital stay. See **"ancillary services."**

"Ancillary services" means additional or supporting services provided by a hospital to a patient during the patient's hospital stay. These services include, but are not limited to, laboratory, radiology, drugs, delivery room, operating room, postoperative recovery rooms, and other special items and services.

"Appropriate level of care" means the level of care required to best manage a client's illness or injury based on the severity of illness presentation and the intensity of services received.

"Approved treatment facility" means a treatment facility, either public or private, profit or nonprofit, approved by DSHS.

"Audit" means an assessment, evaluation, examination, or investigation of a health care provider's accounts, books and records, including:

(1) ~~((Medical))~~ Health, financial and billing records pertaining to billed services paid by the department through medicaid, SCHIP, or other state programs, by a person not employed or affiliated with the provider, for the purpose of verifying the service was provided as billed and was allowable under program regulations; and

(2) Financial, statistical and ~~((medical))~~ health records, including mathematical computations and special studies conducted supporting the medicare cost report((s, HCFA)) (Form 2552-96), submitted to ((MAA)) the department for the purpose of establishing program rates ((of reimbursement)) for payment to hospital providers.

"Audit claims sample" means a ~~((subset of the universe of paid claims from which the sample is drawn, whether based upon judgmental factors or random selection. The sample may consist of any number of claims in the population up to one hundred percent.))~~ ((See also "random claims sample" and "stratified random sample.")) selection of claims reviewed under a defined audit process.

"Authorization" - See **"prior authorization"** and **"expedited prior authorization (EPA)."**

"Average hospital rate" means ~~((the))~~ an average of hospital rates for any particular type of rate that ((MAA)) the department uses.

"Bad debt" means an operating expense or loss incurred by a hospital because of uncollectible accounts receivables.

"Beneficiary" means a recipient of Social Security benefits, or a person designated by an insuring organization as eligible to receive benefits.

"Billed charge" means the charge submitted to the department by the provider.

"Blended rate" means a mathematically weighted average rate.

"Bordering city ((area)) hospital" means a hospital located outside Washington state and located in one of the bordering cities listed in WAC 388-501-0175.

"BR" - See **"by report."**

"Budget neutrality" is a concept that means that hospital payments resulting from payment methodology changes and rate changes should be equal to what payments would have been if the payment methodology changes and rate changes were not implemented. (See also "budget neutrality factor.")

"Budget neutrality factor" is a factor used by the department to adjust conversion factors, per diem rates, and per case rates in order that modifications to the payment methodology and rates are budget neutral. (See also "budget neutrality.")

"Bundled services" means interventions ((which)) that are integral to the major procedure and are not ((reimbursable)) paid separately.

"Buy-in premium" means a monthly premium the state pays so a client is enrolled in part A and/or part B medicare.

"By report (BR)" means a method of ((reimbursement)) payment in which ((MAA)) the department determines the amount it will pay for a service when the rate for that service is not included in ((MAA's)) the department's published fee schedules. Upon request the provider must submit a "report" which describes the nature, extent, time, effort and/or equipment necessary to deliver the service.

"Callback" means keeping hospital staff members on duty beyond their regularly scheduled hours, or having them return to the facility after hours to provide unscheduled services which are usually associated with hospital emergency room, surgery, laboratory and radiology services.

"Capital-related costs" or "capital costs" means the component of operating costs related to capital assets, including, but not limited to:

- (1) Net adjusted depreciation expenses;
- (2) Lease and rentals for the use of depreciable assets;
- (3) The costs for betterment and improvements;
- (4) The cost of minor equipment;
- (5) Insurance expenses on depreciable assets;
- (6) Interest expense; and
- (7) Capital-related costs of related organizations that provide services to the hospital.

Capital costs due solely to changes in ownership of the provider's capital assets are excluded.

"CARF" is the official name for Commission on Accreditation of Rehabilitation Facilities. CARF is an international, independent, nonprofit accreditor of human service providers and networks in the areas of aging services, behavioral health, child and youth services, employment and community services, and medical rehabilitation.

"Case mix ((complexity))" means, from the clinical perspective, the condition of the treated patients and the difficulty associated with providing care. Administratively, it means the resource intensity demands that patients place on an institution.

"Case mix index (CMI)" means the arithmetical index that measures the average relative weight of ((a case)) all cases treated in a hospital during a defined period.

"Charity care" ~~((means necessary hospital health care rendered to indigent persons, to the extent that these persons are unable to pay for the care or to pay the deductibles or coinsurance amounts required by a third party payer, as determined by the department))~~ See chapter 70.170 RCW.

"Chemical dependency" means an alcohol or drug addiction; or dependence on alcohol and one or more other psychoactive chemicals.

"Children's hospital" means a hospital primarily serving children.

"Client" means a person who receives or is eligible to receive services through department of social and health services (DSHS) programs.

"CMS" means Centers for Medicare and Medicaid Services.

"CMS PPS Input Price Index" means a measure, expressed as a percentage, of the annual inflationary costs for hospital services, measured by Global Insight's Data Resources, Inc. (DRI).

"Comorbidity" means of, relating to, or caused by a disease other than the principal disease.

"Complication" means a disease or condition occurring subsequent to or concurrent with another condition and aggravating it.

"Comprehensive hospital abstract reporting system (CHARS)" means the department of health's inpatient hospital data collection, tracking and reporting system.

"Contract hospital-selective contracting" means for dates of admission before July 1, 2007, a licensed hospital located in a selective contracting area, which is awarded a contract to participate in ((MAA's)) the department's hospital selective contracting program. The department's hospital selective contracting program no longer exists for admissions on and after July 1, 2007.

"Contract hospital" means a hospital contracted by the department to provide specific services.

"Contractual adjustment" means the difference between the amount billed at established charges for the services provided and the amount received or due from a third-party payer under a contract agreement. A contractual adjustment is similar to a trade discount.

"Cost proxy" means an average ratio of costs to charges for ancillary charges or per diem for accommodation cost centers used to determine a hospital's cost for the services where the hospital has medicaid claim charges for the services, but does not report costs in corresponding centers in its medicare cost report.

"Cost report" ~~((means the HCFA Form 2552, Hospital and Hospital Health Care Complex Cost Report, completed and submitted annually by a provider:~~

(1) ~~To Medicare intermediaries at the end of a provider's selected fiscal accounting period to establish hospital reimbursable costs for per diem and ancillary services; and~~

(2) ~~To Medicaid to establish appropriate DRG and RCC reimbursement))~~ See "medicare cost report."

"Costs" mean ((MAA)) department-approved operating, medical education, and capital-related costs (capital

costs) as reported and identified on the ~~((HCFA 2552 form.))~~ "cost report."

"Cost-based conversion factor (CBCF)" means for dates of admission before August 1, 2007, a hospital-specific dollar amount that reflects a hospital's average cost of treating medicaid and SCHIP clients. It is calculated from the hospital's cost report by dividing the hospital's costs for treating medicaid and SCHIP clients during a base period by the number of medicaid and SCHIP discharges during that same period and adjusting for the hospital's case mix. See also "hospital conversion factor" and "negotiated conversion factor."

"County hospital" means a hospital established under the provisions of chapter 36.62 RCW.

"Covered charges" means billed charges submitted to the department on a claim by the provider, less the noncovered charges indicated on the claim.

"Covered services" See "hospital covered service" and WAC 388-501-0060.

"Critical border hospital" means, on and after August 1, 2007, an acute care hospital located in a bordering city that the department has, through analysis of admissions and hospital days, designated as critical to provide elective health-care for the department's medical assistance clients.

"Current procedural terminology (CPT)" means a systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians. CPT is copyrighted and published annually by the American Medical Association (AMA).

"Customary charge payment limit" means the limit placed by the department on aggregate DRG payments to a hospital during a given year to assure that DRG payments do not exceed the hospital's charges to the general public for the same services.

"Day outlier" means an inpatient case with a date of admission before August 1, 2007, that requires ((MAA)) the department to make additional payment to the hospital provider but which does not qualify as a high-cost outlier. See "day outlier payment" and "day outlier threshold." The department's day outlier policy no longer exists for dates of admission on and after August 1, 2007.

"Day outlier payment" means the additional amount paid to a disproportionate share hospital for inpatient claims with dates of admission before August 1, 2007, for a client five years old or younger who has a prolonged inpatient stay which exceeds the day outlier threshold but whose covered charges for care fall short of the high cost outlier threshold. The amount is determined by multiplying the number of days in excess of the day outlier threshold and the administrative day rate.

"Day outlier threshold" means for inpatient claims with dates of admission before August 1, 2007, the average number of days a client stays in the hospital for an applicable DRG before being discharged, plus twenty days.

"Deductible" means the amount a beneficiary is responsible for, before medicare starts paying; or the initial specific dollar amount for which the applicant or client is responsible.

"Department" means the state department of social and health services (DSHS). As used in this chapter, department also means MAA, HRSA, or a successor administration that

administers the state's medicaid, SCHIP, and other medical assistance programs.

"Detoxification" means treatment provided to persons who are recovering from the effects of acute or chronic intoxication or withdrawal from alcohol or other drugs.

"~~((Diabetic))~~ Diabetes education program" means a comprehensive, multidisciplinary program of instruction offered by ~~((an MAA))~~ a department of health (DOH)-approved ((facility)) diabetes education provider to diabetic clients on dealing with diabetes((-including)). This includes instruction on nutrition, foot care, medication and insulin administration, skin care, glucose monitoring, and recognition of signs/symptoms of diabetes with appropriate treatment of problems or complications.

"Diagnosis code" means a set of numeric or alphanumeric characters assigned by the ICD-9-CM, or successor document, as a shorthand symbol to represent the nature of a disease.

"Diagnosis-related group (DRG)" means a classification system ~~((which))~~ that categorizes hospital patients into clinically coherent and homogenous groups with respect to resource use, i.e., similar treatments and statistically similar lengths of stay for patients with related medical conditions. Classification of patients is based on the International Classification of Diseases (ICD-9), the presence of a surgical procedure, patient age, presence or absence of significant comorbidities or complications, and other relevant criteria.

"Direct medical education costs" means the direct costs of providing an approved medical residency program as recognized by medicare.

"Discharging hospital" means the institution releasing a client from the acute care hospital setting.

"Disproportionate share hospital (DSH) payment" means ~~((additional))~~ a supplemental payment(s) made by the department to a hospital ((which serves a disproportionate number of Medicaid and other low-income clients and which)) that qualifies for one or more of the disproportionate share hospital programs identified in the state plan.

"Disproportionate share hospital (DSH) program" ~~((means a program that provides additional payments to hospitals which serve a disproportionate number of Medicaid and other low-income clients))~~ is a program through which the department gives consideration to hospitals that serve a disproportionate number of low-income patients with special needs by making payment adjustment to eligible hospitals in accordance with legislative direction and established payment methods. See 1902 (a)(13)(A)(iv) of the Social Security Act. See also WAC 388-550-4900 through 388-550-5400.

"Dispute conference" - See "hospital dispute conference."

"Distinct unit" means a medicare-certified distinct area for psychiatric or rehabilitation services within an acute care hospital or a department-designated unit in a children's hospital.

"Division of alcohol and substance abuse (DASA)" is the division within DSHS responsible for providing alcohol and drug-related services to help clients recover from alcoholism and drug addiction.

"DRG" - See "diagnosis-related group."

"DRG average length-of-stay" means for dates of admission on and after July 1, 2007, the department's average length-of-stay for a DRG classification established during a department DRG rebasing and recalibration project.

"DRG-exempt services" means services which are paid ~~((for))~~ through other methodologies than those using inpatient medicaid conversion factors, inpatient state-administered program conversion factors, cost-based conversion factors (CBCF) or negotiated conversion factors (NCF). Some examples are services paid using a per diem rate, a per case rate, or a ratio of costs-to-charges (RCC) rate.

"DRG payment" means the payment made by the department for a client's inpatient hospital stay. This DRG payment allowed amount is calculated by multiplying the ~~((hospital-specific))~~ conversion factor by the DRG relative weight ~~((for the client's medical diagnosis))~~ assigned by the department to provider's inpatient claim before any outlier payment calculation.

"DRG relative weight" means the average cost or charge of a certain DRG classification divided by the average cost or charge, respectively, for all cases in the entire data base for all DRG~~((s))~~ classifications.

"Drug addiction and/or drug abuse treatment" means the provision of medical and rehabilitative social services to an eligible client designed to mitigate or reverse the effects of drug addiction or drug abuse and to reduce or eliminate drug addiction or drug abuse behaviors and restore normal physical and psychological functioning. Drug addiction or drug abuse treatment is characterized by the provision of a combination of drug and alcohol education sessions, individual therapy, group therapy and related activities to detoxified addicts and their families.

"DSHS" means the department of social and health services.

"Elective procedure or surgery" means a ~~((nonemergency))~~ nonemergency procedure or surgery that can be scheduled at the client's and provider's convenience.

"Emergency medical condition" See WAC 388-500-0005.

"Emergency medical expense requirement (EMER)" means a specified amount of expenses for ambulance, emergency room or hospital services, including physician services in a hospital, incurred for an emergency medical condition that a client must incur prior to certification for the psychiatric indigent inpatient (PII) program.

"Emergency room" or "emergency facility" or "emergency department" means an organized, distinct hospital-based facility available twenty-four hours a day for the provision of unscheduled episodic services to patients who present for immediate medical attention, and is capable of providing emergency services including trauma care.

"Emergency services" means ~~((medical))~~ healthcare services required by and provided to a patient after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part. For department payment to a hospital

~~((reimbursement purposes)),~~ inpatient maternity services are treated as emergency services.

"Equivalency factor (EF)" means a ~~((conversion))~~ factor that may be used~~((;-))~~ by the department in conjunction with ~~((two))~~ other factors ~~((cost-based conversion factor and the ratable factor;-))~~ to determine the level of a state-~~((only))~~administered program payment. See WAC 388-550-4800.

"Exempt hospital—DRG payment method" means a hospital that for a certain patient category is reimbursed for services to ~~((MAA))~~ medical assistance clients through methodologies other than those using ~~((cost-based or negotiated))~~ DRG conversion factors.

"Exempt hospital—Hospital selective contracting program" means a hospital that is either not located in a selective contracting area or is exempted by the department from the selective contracting program. The department's hospital selective contracting program no longer exists for admissions on and after July 1, 2007.

"Expedited prior authorization (EPA)" means the ~~((MAA))~~ department-delegated process of creating an authorization number for selected medical/dental procedures and related supplies and services in which providers use a set of numeric codes to indicate which ~~((MAA))~~ department-acceptable indications, conditions, diagnoses, and/or ~~((MAA))~~ department-defined criteria are applicable to a particular request for service.

"Expedited prior authorization (EPA) number" means an authorization number created by the provider that certifies that ~~((MAA))~~ the department-published criteria for the medical/dental procedure~~((s and related supplies and))~~ or supply or services have been met.

"Experimental" means a ~~((term to describe a))~~ procedure, ~~((or))~~ course of treatment, drug, or piece of medical equipment, which lacks scientific evidence of safety and effectiveness. See WAC ~~((388-531-0500))~~ 388-531-0050. A service is not "experimental" if the service:

- (1) Is generally accepted by the medical profession as effective and appropriate; and
- (2) Has been approved by the FDA or other requisite government body if such approval is required.

~~(("Facility triage fee" means the amount MAA will pay a hospital for a medical evaluation or medical screening examination, performed in the hospital's emergency department, for a nonemergent condition of a healthy options client covered under the primary care case management (PCCM) program. This amount corresponds to the professional care level A or level B service.))~~

"Fee-for-service" means the general payment ~~((method))~~ process the department uses to ~~((reimburse providers))~~ pay a hospital provider's claim for covered medical services provided to medical assistance clients when the payment for these services ((are)) is through direct payment to the hospital provider, and is not ((covered under MAA's healthy options program)) the responsibility of one of the department's managed care organization (MCO) plans, or a mental health division designee.

"Fiscal intermediary" means medicare's designated fiscal intermediary for a region and/or category of service.

"Fixed per diem rate" means a daily amount used to determine payment for specific services provided in long-term acute care (LTAC) hospitals.

"Global surgery days" means the number of preoperative and follow-up days that are included in the ~~((reimbursement))~~ payment to the physician for the major surgical procedure.

"Graduate medical education costs" means the direct and indirect costs of providing medical education in teaching hospitals. See "direct medical education costs" and "indirect medical education costs."

"Grouper" - See "all-patient DRG grouper (AP-DRG)."

~~((("HCFA 2552" - See "cost report."))~~

"Health and recovery services administration (HRSA)" means the successor administration to the medical assistance administration within the department, authorized by the department secretary to administer the acute care portion of Title XIX medicaid, Title XXI SCHIP, and other medical assistance programs, with the exception of certain non-medical services for persons with chronic disabilities.

"Health care team" means a group of health care providers involved in the care of a client.

"High-cost outlier" means, for dates of admission before August 1, 2007, a claim paid under the DRG payment method that did not meet the definition of "administrative day," and has extraordinarily high costs when compared to other claims in the same DRG ~~((, in which the allowed charges, before January 1, 2001, exceed three times the applicable DRG payment and exceed twenty-eight thousand dollars)).~~ For dates of ~~((service))~~ admission on and after January 1, 2001 ~~((and after)),~~ to qualify as a high-cost outlier, the ~~((allowed))~~ billed charges, minus the noncovered charges reported on the claim, must exceed three times the applicable DRG payment and exceed thirty-three thousand dollars. The department's high-cost outliers are not applicable for dates of admission on and after July 1, 2007.

"High outlier claim — Medicaid/SCHIP DRG" means, for dates of admission on and after August 1, 2007, a claim paid under the DRG payment method that does not meet the definition of "administrative day," and has extraordinarily high costs as determined by the department. See WAC 388-550-3700.

"High outlier claim — Medicaid/SCHIP per diem" means, for dates of admission on and after August 1, 2007, a claim that is classified by the department as being allowed a high outlier payment that is paid under the per diem payment method, does not meet the definition of "administrative day," and has extraordinarily high costs as determined by the department. See WAC 388-550-3700.

"High outlier claim — State-administered program DRG" means, for dates of admission on and after August 1, 2007, a claim paid under the DRG payment method that does not meet the definition of "administrative day," and has extraordinarily high costs as determined by the department. See WAC 388-550-3700.

"High outlier claim — State-administered program per diem" means, for dates of admission on or after August 1, 2007, a claim that is classified by the department as being allowed as a high outlier payment, that is paid under the per

diem payment method, does not meet the definition of "administrative day," and has extraordinarily high costs as determined by the department. See WAC 388-550-3700.

"Hospice" means a medically-directed, interdisciplinary program of palliative services for terminally ill clients and the clients' families. Hospice is provided under arrangement with a ~~((Title XVIII))~~ Washington state-licensed and Title XVIII-certified Washington state hospice.

"Hospital" means an entity ~~((which))~~ that is licensed as an acute care hospital in accordance with applicable state laws and regulations, or the applicable state laws and regulations of the state in which the entity is located when the entity is out-of-state, and ~~((which))~~ is certified under Title XVIII of the federal Social Security Act. The term "hospital" includes a medicare or state-certified distinct rehabilitation unit or a "psychiatric hospital" as defined in this section.

"Hospital base period" means, for purposes of establishing a provider rate, a specific period or timespan used as a reference point or basis for comparison.

"Hospital base period costs" means costs incurred in, or associated with, a specified base period.

"Hospital conversion factor" means a hospital-specific dollar amount that reflects the average cost for a DRG paid case of treating medicaid and SCHIP clients in a given hospital. See cost-based conversion factor (CBCF) and negotiated conversion factor (NCF).

"Hospital covered service" means a service that is provided by a hospital, ~~((included in the))~~ covered under a medical assistance program and is within the scope of ~~((the))~~ an eligible client's medical ~~((care))~~ assistance program.

"Hospital cost report" - See "cost report."

"Hospital dispute resolution conference" means an informal meeting for deliberation during a provider administrative appeal. For provider audit appeals, see chapter 388-502A WAC. For provider rate appeals, see WAC 388-501-0220.

~~((1))~~ The first dispute resolution conference is usually a meeting between medical assistance administration and hospital staff, to discuss a department action or audit finding(s). The purpose of the meeting is to clarify interpretation of regulations and policies relied on by the department or hospital, provide an opportunity for submission and explanation of additional supporting documentation or information, and/or to verify accuracy of calculations and application of appropriate methodology for findings or administrative actions being appealed. Issues appealed by the provider will be addressed in writing by the department.

~~((2))~~ At the second level of dispute resolution:

(a) For hospital rates issues, the dispute resolution conference is an informal administrative hearing conducted by an MAA administrator for the purpose of resolving contractor/provider rate disagreements with the department's action at the first level of appeal. The dispute resolution conference in this regard is not a formal adjudicative process held in accordance with the Administrative Procedure Act.

(b) For hospital audit issues, the audit dispute resolution hearing will be held by the office of administrative hearings in accordance with WAC 388-560-1000. This hearing is a formal proceeding and is governed by chapter 34.05 RCW.)

~~((("Hospital facility fee" - See "facility triage fee."))~~

"Hospital market basket index" means a measure, expressed as a percentage, of the annual inflationary costs for hospital services ~~((as))~~ measured by Global Insight's Data Resources, Inc. (DRI) and identified as the CMS PPS Input Price Index.

"Hospital peer group" means the peer group categories ~~((adopted))~~ established by the ~~((former Washington state hospital commission))~~ department for ~~((rate setting purposes))~~ classification of hospitals:

(1) Peer Group A - hospitals identified by the department as rural hospitals (paid under a ratio of costs to charges (RCC) methodology (same as peer group 1)) (excludes all rural hospitals paid by the certified public expenditure (CPE) payment method and critical access hospital (CAH) payment method);

(2) Peer Group B - hospitals identified by the department as urban hospitals without medical education programs ~~((same as peer group 2))~~ excludes all hospitals paid by the CPE payment method and CAH payment method);

(3) Peer Group C - hospitals identified by the department as urban hospitals with medical education programs (excludes all hospitals paid by the CPE payment method and CAH payment method); ~~((and))~~

(4) Peer Group D - hospitals identified by the department as specialty hospitals and/or hospitals not easily assignable to the other ~~((three))~~ five peer groups;

(5) Peer Group E - hospitals identified by the department as public hospitals participating in the "full cost" public hospital certified public expenditure (CPE) payment program; and

(6) Peer Group F - hospitals identified by the department of health (DOH) as CAHs, and paid by the department using the CAH payment method.

"Hospital selective contracting program" or **"selective contracting"** means for dates of admission before July 1, 2007, a negotiated bidding program for hospitals within specified geographic areas to provide inpatient hospital services to medical assistance clients. The department's hospital selective contracting program no longer exists for dates of admission on and after July 1, 2007.

~~("Indigent patient" means a patient who has exhausted any third-party sources, including Medicare and Medicaid, and whose income is equal to or below two hundred percent of the federal poverty standards (adjusted for family size), or is otherwise not sufficient to enable the individual to pay for his or her care, or to pay deductibles or co-insurance amounts required by a third-party payor.)~~

"Indirect medical education costs" means the indirect costs of providing an approved medical residency program as recognized by medicare.

"Inflation adjustment" means, for cost inflation, the hospital inflation adjustment. This adjustment is determined by using the inflation factor method ~~((and guidance indicated))~~ supported by the legislature ~~((in the budget notes to the biennium appropriations bill)).~~ For charge inflation, it means the inflation factor determined by comparing average discharge charges for the industry from one year to the next, as found in the comprehensive hospital abstract reporting system (CHARS) standard reports three and four.

"Informed consent" means that an individual consents to a procedure after the provider who obtained a properly completed consent form has done all of the following:

- (1) Disclosed and discussed the patient's diagnosis;
- (2) Offered the patient an opportunity to ask questions about the procedure and to request information in writing;
- (3) Given the patient a copy of the consent form;
- (4) Communicated effectively using any language interpretation or special communication device necessary per 42 C.F.R. 441.257; and

(5) Given the patient oral information about all of the following:

- (a) The patient's right to not obtain the procedure, including potential risks, benefits, and the consequences of not obtaining the procedure;
- (b) Alternatives to the procedure including potential risks, benefits, and consequences; and
- (c) The procedure itself, including potential risks, benefits, and consequences.

"Inpatient hospital" means a hospital authorized by the department of health to provide inpatient services.

"Inpatient hospital admission" means an admission to a hospital based on an evaluation of the client using objective clinical indicators for the purpose of providing medically necessary inpatient care, including assessment, monitoring, and therapeutic services as required to best manage the client's illness or injury, and that is documented in the client's ~~((medical))~~ health record.

"Inpatient medicaid conversion factor" means a dollar amount that represents selected hospitals' average costs of treating medicaid and SCHIP clients. The conversion factor is a rate that is multiplied by a DRG relative weight to pay medicaid and SCHIP claims under the DRG payment method. See WAC 388-550-3450 for how this conversion factor is calculated.

"Inpatient services" means healthcare services provided directly or indirectly to a client subsequent to the client's inpatient hospital admission and prior to discharge.

"Inpatient state-administered program conversion factor" means a dollar amount used as a rate reduced from the inpatient medicaid conversion factor to pay a hospital for inpatient services provided to a client eligible under a state-administered program. The conversion factor is multiplied by a DRG relative weight to pay claims under the DRG payment method.

"Intermediary" - See **"fiscal intermediary."**

"International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) Edition" means the systematic listing that transforms verbal descriptions of diseases, injuries, conditions and procedures into numerical or alpha numerical designations (coding).

"Length of stay (LOS)" means the number of days of inpatient hospitalization, calculated by adding the total number of days from the admission date to the discharge date, and subtracting one day. ((See also "PAS length of stay (LOS).")

"Length of stay extension request" means a request from a hospital provider for the department, or in the case of psychiatric admission, the appropriate ~~((regional support network (RSN)))~~ mental health division designee, to approve a

client's hospital stay exceeding the average length of stay for the client's diagnosis and age.

"Lifetime hospitalization reserve" means, under the medicare Part A benefit, the nonrenewable sixty hospital days that a beneficiary is entitled to use during his or her lifetime for hospital stays extending beyond ninety days per benefit period. See also **"reserve days."**

"Long term acute care (LTAC) services" means inpatient intensive long-term care services provided in department-approved LTAC hospitals to eligible medical assistance clients who meet criteria for level 1 or level 2 services. See WAC 388-550-2565 through 388-550-2596.

"Low-cost outlier" means a case having a date of admission before August 1, 2007, with extraordinarily low costs when compared to other cases in the same DRG (in which the allowed charges before January 1, 2001, are less than ten percent of the applicable DRG payment or less than four hundred dollars). For dates of (service) admission on and after January 1, 2001, to qualify as a low-cost outlier, the allowed charges must be less than the greater of ten percent of the applicable DRG payment or (less than) four hundred and fifty dollars. The department's low-cost outliers are not applicable for dates of admission on and after August 1, 2007.

"Low income utilization rate (LIUR)" means a rate determined by a formula represented as (A/B)+(C/D) in the same period in which:

(1) The numerator A is the hospital's total patient services revenue under the state plan, plus the amount of cash subsidies for patient services received directly from state and local governments (in a period);

(2) The denominator B is the hospital's total patient services revenue (including the amount of such cash subsidies) (in the same period as the numerator);

(3) The numerator C is the hospital's total inpatient service charge attributable to charity care (in a period), less the portion of cash subsidies described in (1) of this definition in the period reasonably attributable to inpatient hospital services. The amount shall not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under the state plan); and

(4) The denominator D is the hospital's total charge for inpatient hospital services (in the same period as the numerator).

"Major diagnostic category (MDC)" means one of the ((twenty-five)) mutually exclusive groupings of principal diagnosis areas in the AP-DRG classification system. The diagnoses in each MDC correspond to a single major organ system or etiology and, in general, are associated with a particular medical specialty.

"Market basket index" - See **"hospital market basket index."**

"MDC" - See **"major diagnostic category."**

("Medicaid" is the state and federally funded aid program that covers the categorically needy (CNP) and medically needy (MNP) programs.)

"Medicaid cost proxy" means a figure developed to approximate or represent a missing cost figure.

"Medicaid inpatient utilization rate (MIPUR)" means a ratio expressed by the following formula represented as X/Y in which:

(1) The numerator X is the hospital's number of inpatient days attributable to patients who (for such days) were eligible for medical assistance under the state plan in a period.

(2) The denominator Y is the hospital's total number of inpatient days in the same period as the numerator's. Inpatient day includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

"Medical assistance administration (MAA)" ((is)) means the health and recovery services administration (HRSA), or a successor administration, within ((DSHS)) the department authorized by the department's secretary to administer the acute care portion of the Title XIX medicare, Title XXI state children's health insurance program (SCHIP), and ((the state-funded medical care programs)) other medical assistance programs, with the exception of certain nonmedical services for persons with chronic disabilities.

"Medical assistance program" means ((both Medicaid and medical care services programs)) any healthcare program administered through HRSA.

"Medical care services" means the state-administered limited scope of care ((financed by state funds and)) provided to general assistance-unemployable (GAU) recipients, and ((ADATSA clients)) recipients of alcohol and drug addiction services provided under chapter 74.50 RCW.

"Medical education costs" means the expenses incurred by a hospital to operate and maintain a formally organized graduate medical education program.

"Medical screening evaluation" means the service(s) provided by a physician or other practitioner to determine whether an emergent medical condition exists. ((See also "facility triage fee."))

"Medical stabilization" means a return to a state of constant and steady function. It is commonly used to mean the patient is adequately supported to prevent further deterioration.

((("Medically indigent person" means a person certified by the department of social and health services as eligible for the limited casualty program medically indigent (LCP-MI) program. See also "indigent patient."))

"Medicare cost report" means the ((annual cost data reported by a hospital to Medicare on the HCFA form 2552)) medicare cost report (Form 2552-96), or successor document completed and submitted annually by a hospital provider:

(1) To medicare intermediaries at the end of a provider's selected fiscal accounting period to establish hospital reimbursable costs for per diem and ancillary services; and

(2) To medicare to establish appropriate DRG and other rates for payment of services rendered.

"Medicare crossover" means a claim involving a client who is eligible for both medicare benefits and medicare.

"Medicare fee schedule (MFS)" means the official ((HCFA)) CMS publication of medicare policies and relative value units for the resource based relative value scale (RBRVS) ((reimbursement)) payment program.

"Medicare Part A" ((means that part of the Medicare program that helps pay for inpatient hospital services, which may include, but are not limited to:

- (1) A semi-private room;
- (2) Meals;
- (3) Regular nursing services;
- (4) Operating room;
- (5) Special care units;
- (6) Drugs and medical supplies;
- (7) Laboratory services;
- (8) X-ray and other imaging services; and
- (9) Rehabilitation services.

Medicare hospital insurance also helps pay for post-hospital skilled nursing facility care, some specified home health care, and hospice care for certain terminally ill beneficiaries)) See WAC 388-500-0005.

"Medicare Part B" ((means that part of the Medicare program that helps pay for, but is not limited to:

- (1) Physician services;
- (2) Outpatient hospital services;
- (3) Diagnostic tests and imaging services;
- (4) Outpatient physical therapy;
- (5) Speech pathology services;
- (6) Medical equipment and supplies;
- (7) Ambulance;
- (8) Mental health services; and
- (9) Home health services)) See WAC 388-500-0005.

"Medicare buy-in premium" - See **"buy-in premium."**

"Medicare payment principles" means the rules published in the federal register regarding ((reimbursement) payment for services provided to medicare clients.

"Mental health division designee" or "MHD designee" means a professional contact person authorized by MHD, who operates under the direction of a Regional Support Network (RSN) or a prepaid inpatient health plan (PIHP). See WAC 388-550-2600.

"Mentally incompetent" means a person who has been declared mentally incompetent by a federal, state, or local court of competent jurisdiction ((for any purpose, unless the person has been declared competent for purposes which include the ability to consent to sterilization)).

"Multiple occupancy rate" means the rate customarily charged for a hospital room with two to four patient beds.

"National Drug Code (NDC)" means the eleven digit number the manufacturer or labeler assigns to a pharmaceutical product and attaches to the product container at the time of packaging. The eleven-digit NDC is composed of a five-four-two grouping. The first five digits comprise the labeler code assigned to the manufacturer by the Federal Drug Administration (FDA). The second grouping of four digits is assigned by the manufacturer to describe the ingredients, dose form, and strength. The last grouping of two digits describes the package size.

"Negotiated conversion factor (NCF)" means, for dates of admission before July 1, 2007, a negotiated hospital-specific dollar amount which is used in lieu of the cost-based conversion factor as the multiplier for the applicable DRG weight to determine the DRG payment for a selective contracting program hospital. See also **"hospital conversion**

factor" and **"cost-based conversion factor."** The department's hospital selective contracting program no longer exists for dates of admission on and after July 1, 2007.

"Newborn" or "neonate" or "neonatal" means a person younger than twenty-nine days old. However, a person who has been admitted to an acute care hospital setting as a newborn and is transferred to another acute care hospital setting is still considered a newborn for payment purposes.

"Nonallowed service or charge" means a service or charge that is not recognized for payment by the department, and cannot be billed to the client except under the conditions identified in WAC 388-502-0160.

"Noncontract hospital" means, for dates of admission before July 1, 2007 a licensed hospital located in a selective contracting area (SCA) but which does not have a contract to participate in the hospital selective contracting program. The department's hospital selective contracting program no longer exists for dates of admission on and after July 1, 2007.

"Noncovered charges" means billed charges submitted to the department by a provider on a claim that are indicated by the provider on the claim as noncovered.

"Noncovered service or charge" means a service or charge that is not ((reimbursed)) considered or paid by the department as a "hospital covered service," and cannot be billed to the client except under the conditions identified in WAC 388-502-0160.

"((Nonemergent)) Nonemergency hospital admission" means any inpatient hospitalization of a patient who does not have an emergent medical condition, as defined in WAC 388-500-0005((-Emergency services)).

"Nonparticipating hospital" means a noncontract hospital. See **"noncontract hospital."**

"Observation services" means healthcare services furnished by a hospital on the hospital's premises, including use of a bed and periodic monitoring by hospital staff, which are reasonable and necessary to evaluate an outpatient's condition or determine the need for possible admission to the hospital as an inpatient.

"Operating costs" means all expenses incurred in providing accommodation and ancillary services, excluding capital and medical education costs.

"OPPS" - See **"outpatient prospective payment system."**

"OPPS adjustment" means the legislative mandated reduction in the outpatient adjustment factor made to account for the delay of OPPS implementation.

"OPPS outpatient adjustment factor" means the outpatient adjustment factor reduced by the OPPS and adjustment factor as a result of legislative mandate.

"Orthotic device" or "orthotic" means a corrective or supportive device that:

- (1) Prevents or corrects physical deformity or malfunction; or
- (2) Supports a weak or deformed portion of the body.

"Out-of-state hospital" means any hospital located outside the state of Washington and outside the designated ((border areas)) bordering cities in Oregon and Idaho (See WAC 388-501-0175). For medical assistance clients requiring psychiatric services, "out-of-state hospital" means any hospital located outside the state of Washington.

"Outlier set-aside factor" means the amount by which a hospital's cost-based conversion factor is reduced for payments of high cost outlier cases. The department's outlier set-aside factor is not applicable for dates of admission on and after August 1, 2007.

"Outlier set-aside pool" means the total amount of payments for high cost outliers which are funded annually based on payments for high cost outliers during the year. The department's outlier set-aside pool is not applicable for dates of admission on and after August 1, 2007.

"Outliers" means cases with extraordinarily high or low costs when compared to other cases in the same DRG.

"Outpatient" means a patient who is receiving ((medical)) healthcare services in other than an inpatient hospital setting.

"Outpatient care" means ((medical care)) healthcare provided other than inpatient services in a hospital setting.

"Outpatient hospital" means a hospital authorized by the department of health to provide outpatient services.

"Outpatient hospital services" means those healthcare services that are within a hospital's licensure and provided to a client who is designated as an outpatient.

"Outpatient observation" - See **"observation services."**

"Outpatient prospective payment system (OPPS)" means the payment system used by ((MAA)) the department to calculate reimbursement to hospitals for the facility component of outpatient services. This system uses ambulatory payment classifications (APCs) as the primary basis of payment.

"Outpatient short stay" - See **"observation services"** and **"outpatient hospital services."**

"Outpatient surgery" means a surgical procedure that is not expected to require an inpatient hospital admission.

"Pain treatment facility" means ((an MAA-approved)) a department-approved inpatient facility for pain management, in which a multidisciplinary approach is used to teach clients various techniques to live with chronic pain.

"Participating hospital" means a licensed hospital that accepts ((MAA)) department clients.

"PAS length of stay (LOS)" means, for dates of admission before August 1, 2007, the average length of an inpatient hospital stay for patients based on diagnosis and age, as determined by the Commission of Professional and Hospital Activities and published in a book entitled *Length of Stay by Diagnosis, Western Region*. See also **"professional activity study (PAS)."**

"Patient consent" means the informed consent of the patient and/or the patient's legal guardian, as evidenced by the patient's or guardian's signature on a consent form, for the procedure(s) to be performed upon or for the treatment to be provided to the patient.

"Peer group" - See **"hospital peer group."**

"Peer group cap" means, for dates of admission before August 1, 2007, the reimbursement limit set for hospital peer groups B and C, established at the seventieth percentile of all hospitals within the same peer group for aggregate operating, capital, and direct medical education costs.

~~("Per diem charge" means the daily room charge, per client, billed by the facility for room and board services that~~

~~are covered by the department. This is sometimes referred to as "room rate.")~~

"Per diem rate" means a daily rate used to calculate payment for services provided as a "hospital covered service."

"Personal comfort items" means items and services which primarily serve the comfort or convenience of a client and do not contribute meaningfully to the treatment of an illness or injury ((or the functioning of a malformed body member)).

"PM&R" - See **"Acute PM&R."**

~~("Physician standby" means physician attendance without direct face to face patient contact and does not involve provision of care or services.~~

~~"Physician's current procedural terminology (CPT)" - See "CPT.")~~

"Plan of treatment" or **"plan of care"** means the written plan of care for a patient which includes, but is not limited to, the physician's order for treatment and visits by the disciplines involved, the certification period, medications, and rationale indicating need for services.

"PPS" See "prospective payment system."

~~("Pregnant and postpartum women (PPW)" means eligible female clients who are pregnant or until the end of the month which includes the sixtieth day following the end of the pregnancy.)~~

"Primary care case management (PCCM)" means the coordination of healthcare services under the department's Indian health center or tribal clinic managed care program. See WAC 388-538-068.

"Principal diagnosis" means the condition established after study to be chiefly responsible for the admission of the patient to the hospital for care.

"Principal procedure" means a procedure performed for definitive treatment rather than diagnostic or exploratory purposes, or because it was necessary due to a complication.

"Prior authorization" means a process by which clients or providers must request and receive ((MAA)) department or a department designee's approval for certain ((medical)) healthcare services, equipment, or supplies, based on medical necessity, before the services are provided to clients, as a precondition for payment to the provider ((reimbursement)). Expedited prior authorization and limitation extension are forms of prior authorization.

"Private room rate" means the rate customarily charged by a hospital for a one-bed room.

"Professional activity study (PAS)" means the compilation of inpatient hospital data by diagnosis and age, conducted by the Commission of Professional and Hospital Activities, which resulted in the determination of an average length of stay for patients. The data are published in a book entitled *Length of Stay by Diagnosis, Western Region*.

"Professional component" means the part of a procedure or service that relies on the physician's professional skill or training, or the part of a ((reimbursement)) payment that recognizes the physician's cognitive skill.

"Prognosis" means the probable outcome of a patient's illness, including the likelihood of improvement or deterioration in the severity of the illness, the likelihood for recur-

rence, and the patient's probable life span as a result of the illness.

~~("Prolonged service" means direct face to face patient services provided by a physician, either in the inpatient or outpatient setting, which involve time beyond what is usual for such services.)~~

"Prospective payment system (PPS)" means a system that sets payment rates for a predetermined period for defined services, before the services are provided. The payment rates are based on economic forecasts and the projected cost of services for the predetermined period.

"Prosthetic device" or "prosthetic" means a replacement, corrective, or supportive device prescribed by a physician or other licensed practitioner ~~((of the healing arts))~~, within the scope of his or her practice as defined by state law, to:

- (1) Artificially replace a missing portion of the body;
- (2) Prevent or correct physical deformity or malfunction;

or

- (3) Support a weak or deformed portion of the body.

"Psychiatric hospital((s))" means a medicare-certified distinct ((part)) psychiatric unit((s)), a medicare-certified psychiatric hospital((s)), ((and)) or a state-designated pediatric distinct ((part)) psychiatric unit((s)) in a medicare-certified acute care hospital((s)). ~~((State-owned psychiatric hospitals))~~ Eastern State Hospital and Western State Hospital are excluded from this definition.

"Psychiatric indigent inpatient (PII) program" means a state-administered program established by the department specifically for mental health clients identified in need of voluntary emergency inpatient psychiatric care by a mental health division designee. See WAC 388-865-0217.

"Psychiatric indigent person" means a person certified by the department as eligible for the psychiatric indigent inpatient (PII) program.

"Public hospital district" means a hospital district established under chapter 70.44 RCW.

~~("Random claims sample" means a sample in which all of the items are selected randomly, using a random number table or computer program, based on a scientific method of assuring that each item has an equal chance of being included in the sample. See also "audit claims sample" and "stratified random sample.")~~

"Ratable" means a ~~((hospital-specific adjustment))~~ factor ~~((applied))~~ used to ((the cost-based conversion factor (CBCF)) calculate a reduction factor used to reduce medicare aid level rates to determine state((only)) administered program claim payment ((rates)) to hospitals.

"Ratio of costs-to-charges (RCC)" means a method used to pay hospitals for some services exempt from the DRG payment method. It also refers to the factor or rate applied to a hospital's allowed covered charges for medically necessary services to determine estimated costs, as determined by the department, and payment to the hospital for ((these)) some DRG-exempt services.

"RCC" - See **"ratio of costs-to-charges."**

"Rebasing" means the process of recalculating the ~~((hospital cost-based))~~ conversion factors, per diems, per case rates, or RCC rates using historical data.

"Recalibration" means the process of recalculating DRG relative weights using historical data.

"Regional support network (RSN)" means a county authority or a group of county authorities recognized and certified by the department, that contracts with the department per chapters 38.52, 71.05, 71.24, 71.34, and 74.09 RCW and chapters 275-54, 275-55, and 275-57 WAC, to manage the provision of mental health services to medical assistance clients.

"Rehabilitation accreditation commission, The" - See **"CARF."**

"Rehabilitation units" means specifically identified rehabilitation hospitals and designated rehabilitation units of ~~((general))~~ hospitals that meet department and/or medicare criteria for distinct ((part)) rehabilitation units.

"Relative weights" - See **"DRG relative weights."**

"Remote hospitals" means, for claims with dates of admission before July 1, 2007, hospitals that meet the following criteria during the hospital selective contracting (HSC) waiver application period:

- (1) Are located within Washington state;
- (2) Are more than ten miles from the nearest hospital in the HSC competitive area; and
- (3) Have fewer than seventy-five beds; and
- (4) Have fewer than five hundred medicaid and SCHIP admissions within the previous waiver period.

"Reserve days" means the days beyond the ninetieth day of hospitalization of a medicare patient for a benefit period or spell of illness. See also **"lifetime hospitalization reserve."**

"Retrospective payment system" means a system that sets payment rates for defined services according to historic costs. The payment rates reflect economic conditions experienced in the past.

"Revenue code" means a nationally-assigned coding system for billing inpatient and outpatient hospital services, home health services, and hospice services.

"Room and board" means the services a hospital facility provides a patient during the patient's hospital stay. These services include, but are not limited to, a routine or special care hospital room and related furnishings, routine supplies, dietary and nursing services, and the use of certain hospital equipment and facilities.

"Rural health clinic" means a clinic that is located in areas designed by the Bureau of Census as rural and by the Secretary of the Department of Health and Human Services (DHHS), ~~((Education and Welfare (DHEW)))~~ as medically underserved.

"Rural hospital" means ~~((a rural health care))~~ an acute care healthcare facility capable of providing or assuring availability of inpatient and outpatient hospital health services in a rural area.

"Secondary diagnosis" means a diagnosis other than the principal diagnosis for which an inpatient is admitted to a hospital.

"Selective contracting area (SCA)" means, for dates of admission before July 1, 2007, an area in which hospitals participate in negotiated bidding for hospital contracts. The boundaries of an SCA are based on historical patterns of hospital use by medicaid ((patients)) and SCHIP clients. This

definition is not applicable for dates of admission on and after July 1, 2007.

"Semi-private room rate" means a rate customarily charged for a hospital room with two to four beds; this charge is generally lower than a private room rate and higher than a ward room. See also **"multiple occupancy rate."**

"Seven-day readmission" means the situation in which a client who was admitted as an inpatient and discharged from the hospital has returned to inpatient status to the same or a different hospital within seven days.

"Special care unit" means a department of health (DOH) or medicare-certified hospital unit where intensive care, coronary care, psychiatric intensive care, burn treatment or other specialized care is provided.

"Specialty hospitals" means children's hospitals, psychiatric hospitals, cancer research centers or other hospitals which specialize in treating a particular group of patients or diseases.

"Spendedown" means the process ~~((of assigning excess income for the medically needy program, or excess income and/or resources for the medically indigent program, to the client's cost of medical care. The client must incur medical expenses equal to the excess income (spendedown) before medical care can be authorized))~~ by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the department. See chapter 388-519 WAC.

"Stat laboratory charges" means the charges by a laboratory for performing a test or tests immediately. "Stat." is the abbreviation for the Latin word "statim" meaning immediately.

"State children's health insurance program (SCHIP)" means the federal Title XXI program under which medical care is provided to uninsured children younger than age nineteen.

"State plan" means the plan filed by the department with the ~~((Health Care Financing Administration (HCFA)))~~ Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services (DHHS), outlining how the state will administer medicaid and SCHIP services, including the hospital program.

~~("Stratified random sample" means a sample consisting of claims drawn randomly, using statistical formulas, from each stratum of a universe of paid claims stratified according to the dollar value of the claims. See also "audit claims sample" and "random claims sample."))~~

"Subacute care" means care provided to a patient which is less intensive than that given at an acute care hospital. Skilled nursing, nursing care facilities and other facilities provide subacute care services.

"Surgery" means the medical diagnosis and treatment of injury, deformity or disease by manual and instrumental operations. For reimbursement purposes, surgical procedures are those designated in CPT as procedure codes 10000 to 69999.

"Swing-bed day" means a day in which ~~((an inpatient))~~ a client is receiving skilled nursing services in a hospital designated swing bed at the hospital's census hour. The hospital swing bed must be certified by the ((health care financing administration (HCFA))) Centers for Medicare and Medicaid

Services (CMS) for both acute care and skilled nursing services.

~~("Teaching hospital" means, for purposes of the teaching hospital assistance program disproportionate share hospital (THAPDSH), the University of Washington Medical Center and Harborview Medical Center.))~~

"Technical component" means the part of a procedure or service that relates to the equipment set-up and technician's time, or the part of a ~~((reimbursement))~~ procedure and service payment that recognizes the equipment cost and technician time.

"Tertiary care hospital" means a specialty care hospital providing highly specialized services to clients with more complex medical needs than acute care services.

"Total patient days" means all patient days in a hospital for a given reporting period, excluding days for skilled nursing, nursing care, and observation days.

"Transfer" means to move a client from one acute care facility or distinct unit to another.

"Transferring hospital" means the hospital or distinct unit that transfers a client to another acute care facility.

"Trauma care facility" means a facility certified by the department of health as a level I, II, III, IV, or V facility. See chapter 246-976 WAC.

"Trauma care service" - See department of health's WAC 246-976-935.

"UB-04" is the uniform billing document required for use nationally, beginning on May 23, 2007, by hospitals, nursing facilities, hospital-based skilled nursing facilities, home health agencies, and hospice agencies in billing third party payers for services provided to patients. This includes the current national uniform billing data element specifications developed by the National Uniform Billing Committee and approved and/or modified by the Washington State Payer Group or the department.

"UB-92" ~~((means))~~ is the uniform billing document ((intended for use nationally by hospitals, nonhospital-based acute PM&R (Level B) nursing facilities, hospital-based skilled nursing facilities, home health, and hospice agencies in billing third party payers for services provided to patients)) discontinued for billing claims submitted on and after May 23, 2007.

"Unbundled services" means ~~((services which are excluded from the DRG payment to a hospital))~~ interventions that are not integral to the major procedure and that are paid separately.

"Uncompensated care" - See **"charity care."**

"Uniform cost reporting requirements" means a standard accounting and reporting format as defined by medicare.

"Uninsured ((indigent)) patient" means an individual who ~~((has no health insurance coverage or has insufficient health insurance or other resources to cover the cost of))~~ is not covered by insurance for provided inpatient and/or outpatient hospital services.

"Usual and customary charge (UCC)" means the charge customarily made to the general public for a health-care procedure or service, or the rate charged other contractors for the service if the general public is not served.

"Vendor rate increase" means an inflation adjustment determined by the legislature, that may be used to periodi-

cally increase ((~~reimbursement~~) rates for payment to vendors, including ((~~health care~~) healthcare providers, that do business with the state.

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

WSR 07-09-006
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed April 5, 2007, 12:02 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district.

Hearing Location(s): 2901 Third Avenue, 4th Floor, Rainier Conference Room, Seattle, WA 98121, on May 23, 2007, at 9:30 a.m.

Date of Intended Adoption: May 23, 2007.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2901 Third Avenue, Suite 500, Seattle, WA 98121, e-mail larsonp@wsdot.wa.gov, fax (206) 515-3906, by May 17, 2007.

Assistance for Persons with Disabilities: Contact Judy Bell by May 21, 2007, (206) 515-3647.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to establish a Puget Sound pilotage district annual tariff.

The proposed rule reflects a range of increases to be charged for pilotage services in the Puget Sound pilotage district for the 2007-2008 tariff year. The low end of the range is proposed by the Pacific Merchant Shipping Association (PMSA) and Polar Tankers, Inc. NW (PTI). The high end of the range and other specified increases and amendments are proposed by the Puget Sound pilots (PSP). At this time nearly all rates are at issue. Upon consideration of all written and oral testimony, it is anticipated that the adopted rule will reflect increases to the tariff in the range between 0% and 14%. Exceptions include some tariff categories which are outside of this range or specifically allocated to new charges and are specified below.

PMSA and PTI propose that the low end of the range of increases is 0% applied across-the-board except for the *Transportation and Training Surcharge* categories to which no change is applied.

PSP proposes that the high end of the range of increases is 8% applied across-the-board (except for the *Transporta-*

tion and Training Surcharge categories to which no change is applied) and the creation of a new *Pension Charge* in the amount of \$195 per assignment (the equivalent of an additional 6% across-the-board increase).

PSP also proposes a modification to the *Delinquent Payment Charge* category to make interest payable starting 30 days from the first billing.

PMSA and PTI do not support the addition of a *Pension Charge* or the amendment to the *Delinquent Payment Charge*.

Clarifying language was proposed in the *Training Surcharge* category.

Reasons Supporting Proposal: RCW 88.16.035 requires that a tariff be set annually.

Statutory Authority for Adoption: RCW 88.16.035.

Statute Being Implemented: Chapter 88.16 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Current rates for the Puget Sound pilotage district expire on June 30, 2007. New rates must be set annually.

The board may adopt a rule that varies from the proposed rule upon consideration of presentations and written comments from the public and any other interested parties.

Name of Proponent: Puget Sound Pilots, Pacific Merchant Shipping Association, and Polar Tankers, Inc., N.W., private.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, 2901 Third Avenue, Seattle, WA 98121, (206) 515-3904.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is being considered in the context of the required annual revision to the rates charged for pilotage services. The application of the range of proposed increases is clear in the description of the proposal and its anticipated effects as well as the attached proposed tariff.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule adoption. The Washington state board of pilotage commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

April 5, 2007

Peggy Larson

Administrator

AMENDATORY SECTION (Amending WSR 07-01-084, filed 12/19/06, effective 1/20/07)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours ((~~January 20~~) July 1, 2007, through 2400 hours June 30, ((~~2007~~) 2008).

CLASSIFICATION

Ship length overall (LOA)

Charges:

Per LOA rate schedule in this section.

RATE

CLASSIFICATION	RATE
Boarding fee: Per each boarding/deboarding at the Port Angeles pilot station.	\$43.00 to \$46.00 range
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift - Dead ship	Double LOA Zone I
Towing charge - Dead ship: LOA of tug + LOA of tow + beam of tow	Double LOA Zone
Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.	
Compass Adjustment	\$310.00 to \$335.00 range
Radio Direction Finder Calibration	\$310.00 to \$335.00 range
Launching Vessels	\$466.00 to \$503.00 range
Trial Trips, 6 hours or less (minimum \$876.00 to \$948.00 range)	\$146.00 to \$158.00 range per hour
Trial Trips, over 6 hours (two pilots)	\$291.00 to \$314.00 range per hour
Shilshole Bay – Salmon Bay	\$182.00 to \$197.00 range
Salmon Bay – Lake Union	\$141.00 to \$152.00 range
Lake Union – Lake Washington (plus LOA zone from Webster Point)	\$182.00 to \$197.00 range
Cancellation Charge	LOA Zone I
Cancellation Charge – Port Angeles: (When a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for a pilot or when a pilot order is canceled less than twelve hours prior to the original ETA.)	LOA Zone II

Waterway and Bridge Charges:

Ships up to 90' beam:

A charge of \$229.00 to \$247.00 range shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of \$109.00 to \$118.00 range per bridge.

Ships 90' beam and/or over:

A charge of \$311.00 to \$336.00 range shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of \$217.00 to \$234.00 range per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Docking Delay After Anchoring:

Applicable harbor shift rate to apply, plus \$236.00 to \$255.00 range per hour standby. No charge if delay is 60 minutes or

less. If the delay is more than 60 minutes, charge is \$236.00 to \$255.00 range for every hour or fraction thereof.

Sailing Delay:

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$236.00 to \$255.00 range for every hour or fraction thereof. The assessment of the standby fee shall not exceed a period of twelve hours in any twenty-four-hour period.

Slowdown:

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of \$236.00 to \$255.00 range per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Delayed Arrival – Port Angeles:

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of \$236.00 to \$255.00 range for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Tonnage Charges:

0 to 20,000 gross tons:

Additional charge to LOA zone mileage of \$0.0073 to \$0.0079 range a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:

Additional charge to LOA zone mileage of \$0.0751 to \$0.0811 range a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:

In excess of 50,000 gross tons, the charge shall be \$0.0900 to \$0.0972 range per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Transportation to Vessels on Puget Sound:

March Point or Anacortes	\$157.00
Bangor	153.00
Bellingham	181.00
Bremerton	135.00
Cherry Point	209.00
Dupont	97.00
Edmonds	35.00
Everett	59.00
Ferndale	199.00
Manchester	131.00
Mukilteo	53.00
Olympia	125.00
Point Wells	35.00
Port Gamble	185.00
Port Townsend (Indian Island)	223.00
Seattle	15.00
Tacoma	71.00

(a) Intraharbor transportation for the Port Angeles port area: Transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.

(b) Interport shifts: Transportation paid to and from both points.

(c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is canceled on or before scheduled reporting time, transportation paid one way only.

(d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.

(e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$2.00 per mile.

Delinquent Payment Charge:

1 1/2% per month after 30 days to 45 days range from first billing.

Nonuse of Pilots:

Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

Training Surcharge:

Effective January 20, 2007, a surcharge of \$5.00 for each pilot trainee then receiving a stipend pursuant to the training program provided in WAC 363-116-078 shall be added to each ((vessel)) pilotage assignment.

Pension Charge:

A \$0.00 to \$195.00 range charge per pilotage assignment, including cancellations.

LOA Rate Schedule:

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

LOA	<u>LOW RANGE</u>					
	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
Up to 449	227	351	600	894	1,204	1,562
450 - 459	236	358	604	908	1,224	1,570
460 - 469	238	362	613	923	1,240	1,577
470 - 479	247	372	621	941	1,244	1,580
480 - 489	253	379	624	959	1,251	1,587
490 - 499	257	384	632	976	1,267	1,595
500 - 509	270	391	642	988	1,276	1,605
510 - 519	272	398	649	1,002	1,290	1,610
520 - 529	275	412	657	1,007	1,301	1,624
530 - 539	284	417	666	1,018	1,322	1,642
540 - 549	289	423	681	1,029	1,343	1,657

LOA	<u>LOW RANGE</u>					
	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I Intra Harbor	II 0-30 Miles	III 31-50 Miles	IV 51-75 Miles	V 76-100 Miles	VI 101 Miles & Over
550 - 559	294	438	686	1,044	1,353	1,673
560 - 569	305	455	699	1,053	1,366	1,689
570 - 579	311	459	702	1,058	1,380	1,700
580 - 589	324	466	718	1,066	1,389	1,717
590 - 599	340	476	723	1,071	1,409	1,737
600 - 609	351	490	732	1,075	1,426	1,746
610 - 619	371	495	746	1,080	1,440	1,761
620 - 629	386	502	751	1,092	1,456	1,782
630 - 639	404	510	760	1,095	1,469	1,797
640 - 649	419	522	769	1,097	1,481	1,810
650 - 659	449	531	782	1,107	1,499	1,829
660 - 669	458	537	789	1,112	1,515	1,844
670 - 679	474	551	797	1,132	1,533	1,854
680 - 689	481	560	808	1,142	1,546	1,872
690 - 699	495	569	820	1,162	1,562	1,911
700 - 719	517	588	835	1,177	1,592	1,933
720 - 739	548	604	856	1,193	1,624	1,965
740 - 759	569	632	872	1,204	1,657	2,000
760 - 779	591	653	894	1,224	1,689	2,027
780 - 799	621	682	908	1,240	1,717	2,062
800 - 819	646	702	926	1,247	1,746	2,093
820 - 839	666	727	947	1,267	1,782	2,118
840 - 859	694	756	965	1,281	1,809	2,154
860 - 879	720	782	983	1,314	1,844	2,185
880 - 899	746	805	1,002	1,345	1,872	2,217
900 - 919	768	831	1,019	1,379	1,911	2,248
920 - 939	791	856	1,044	1,409	1,931	2,278
940 - 959	820	878	1,059	1,440	1,965	2,306
960 - 979	839	904	1,078	1,469	2,000	2,341
980 - 999	867	926	1,096	1,499	2,027	2,370
1000 - 1019	919	986	1,145	1,579	2,122	2,473
1020 - 1039	944	1,014	1,180	1,624	2,186	2,546
1040 - 1059	972	1,039	1,215	1,673	2,249	2,621
1060 - 1079	1,002	1,076	1,250	1,724	2,319	2,699
1080 - 1099	1,032	1,107	1,288	1,773	2,387	2,780
1100 - 1119	1,061	1,140	1,327	1,828	2,458	2,864
1120 - 1139	1,094	1,176	1,368	1,881	2,532	2,949
1140 - 1159	1,126	1,209	1,407	1,938	2,609	3,038
1160 - 1179	1,159	1,244	1,450	1,996	2,686	3,129
1180 - 1199	1,195	1,282	1,492	2,056	2,768	3,223
1200 - 1219	1,231	1,321	1,536	2,118	2,850	3,318
1220 - 1239	1,267	1,360	1,582	2,181	2,934	3,417
1240 - 1259	1,304	1,400	1,629	2,246	3,023	3,519
1260 - 1279	1,343	1,441	1,678	2,313	3,114	3,625

LOA	<u>LOW RANGE</u>					
	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
1280 - 1299	1,383	1,486	1,729	2,383	3,205	3,734
1300 - 1319	1,425	1,528	1,779	2,453	3,302	3,845
1320 - 1339	1,468	1,574	1,834	2,527	3,400	3,961
1340 - 1359	1,510	1,622	1,889	2,602	3,502	4,080
1360 - 1379	1,556	1,669	1,944	2,681	3,606	4,200
1380 - 1399	1,602	1,719	2,004	2,760	3,714	4,328
1400 - 1419	1,650	1,771	2,061	2,842	3,825	4,457
1420 - 1439	1,699	1,824	2,124	2,928	3,941	4,590
1440 - 1459	1,751	1,879	2,189	3,014	4,059	4,727
1460 - 1479	1,800	1,934	2,252	3,105	4,180	4,868
1480 - 1499	1,855	1,991	2,320	3,197	4,304	5,013
1500 & Over	1,911	2,052	2,389	3,295	4,432	5,163

LOA	<u>HIGH RANGE</u>					
	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
<u>Up to 449</u>	<u>245</u>	<u>379</u>	<u>648</u>	<u>966</u>	<u>1,300</u>	<u>1,687</u>
<u>450 - 459</u>	<u>254</u>	<u>387</u>	<u>652</u>	<u>980</u>	<u>1,322</u>	<u>1,695</u>
<u>460 - 469</u>	<u>257</u>	<u>391</u>	<u>662</u>	<u>996</u>	<u>1,339</u>	<u>1,703</u>
<u>470 - 479</u>	<u>267</u>	<u>402</u>	<u>671</u>	<u>1,016</u>	<u>1,343</u>	<u>1,706</u>
<u>480 - 489</u>	<u>273</u>	<u>410</u>	<u>674</u>	<u>1,035</u>	<u>1,351</u>	<u>1,714</u>
<u>490 - 499</u>	<u>277</u>	<u>415</u>	<u>683</u>	<u>1,054</u>	<u>1,369</u>	<u>1,722</u>
<u>500 - 509</u>	<u>292</u>	<u>422</u>	<u>694</u>	<u>1,067</u>	<u>1,378</u>	<u>1,733</u>
<u>510 - 519</u>	<u>293</u>	<u>430</u>	<u>700</u>	<u>1,082</u>	<u>1,393</u>	<u>1,738</u>
<u>520 - 529</u>	<u>297</u>	<u>445</u>	<u>710</u>	<u>1,087</u>	<u>1,405</u>	<u>1,754</u>
<u>530 - 539</u>	<u>307</u>	<u>450</u>	<u>719</u>	<u>1,099</u>	<u>1,428</u>	<u>1,773</u>
<u>540 - 549</u>	<u>312</u>	<u>457</u>	<u>735</u>	<u>1,112</u>	<u>1,450</u>	<u>1,789</u>
<u>550 - 559</u>	<u>317</u>	<u>473</u>	<u>741</u>	<u>1,128</u>	<u>1,461</u>	<u>1,807</u>
<u>560 - 569</u>	<u>329</u>	<u>491</u>	<u>755</u>	<u>1,137</u>	<u>1,476</u>	<u>1,824</u>
<u>570 - 579</u>	<u>336</u>	<u>496</u>	<u>758</u>	<u>1,142</u>	<u>1,491</u>	<u>1,836</u>
<u>580 - 589</u>	<u>350</u>	<u>504</u>	<u>775</u>	<u>1,152</u>	<u>1,500</u>	<u>1,855</u>
<u>590 - 599</u>	<u>367</u>	<u>514</u>	<u>781</u>	<u>1,157</u>	<u>1,521</u>	<u>1,876</u>
<u>600 - 609</u>	<u>379</u>	<u>529</u>	<u>790</u>	<u>1,161</u>	<u>1,540</u>	<u>1,886</u>
<u>610 - 619</u>	<u>400</u>	<u>534</u>	<u>806</u>	<u>1,166</u>	<u>1,555</u>	<u>1,902</u>
<u>620 - 629</u>	<u>416</u>	<u>542</u>	<u>812</u>	<u>1,180</u>	<u>1,572</u>	<u>1,924</u>
<u>630 - 639</u>	<u>437</u>	<u>550</u>	<u>821</u>	<u>1,183</u>	<u>1,587</u>	<u>1,941</u>
<u>640 - 649</u>	<u>453</u>	<u>564</u>	<u>830</u>	<u>1,185</u>	<u>1,599</u>	<u>1,955</u>
<u>650 - 659</u>	<u>485</u>	<u>573</u>	<u>845</u>	<u>1,196</u>	<u>1,619</u>	<u>1,975</u>
<u>660 - 669</u>	<u>494</u>	<u>580</u>	<u>852</u>	<u>1,201</u>	<u>1,637</u>	<u>1,991</u>
<u>670 - 679</u>	<u>512</u>	<u>595</u>	<u>861</u>	<u>1,223</u>	<u>1,655</u>	<u>2,002</u>
<u>680 - 689</u>	<u>520</u>	<u>605</u>	<u>873</u>	<u>1,233</u>	<u>1,670</u>	<u>2,022</u>
<u>690 - 699</u>	<u>534</u>	<u>615</u>	<u>885</u>	<u>1,255</u>	<u>1,687</u>	<u>2,064</u>
<u>700 - 719</u>	<u>558</u>	<u>635</u>	<u>901</u>	<u>1,271</u>	<u>1,720</u>	<u>2,088</u>

LOA	HIGH RANGE					
	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I Intra Harbor	II 0-30 Miles	III 31-50 Miles	IV 51-75 Miles	V 76-100 Miles	VI 101 Miles & Over
<u>720 - 739</u>	<u>592</u>	<u>652</u>	<u>924</u>	<u>1,288</u>	<u>1,754</u>	<u>2,123</u>
<u>740 - 759</u>	<u>615</u>	<u>683</u>	<u>941</u>	<u>1,300</u>	<u>1,789</u>	<u>2,160</u>
<u>760 - 779</u>	<u>639</u>	<u>706</u>	<u>966</u>	<u>1,322</u>	<u>1,824</u>	<u>2,190</u>
<u>780 - 799</u>	<u>671</u>	<u>737</u>	<u>980</u>	<u>1,339</u>	<u>1,855</u>	<u>2,227</u>
<u>800 - 819</u>	<u>698</u>	<u>758</u>	<u>1,000</u>	<u>1,347</u>	<u>1,886</u>	<u>2,261</u>
<u>820 - 839</u>	<u>719</u>	<u>785</u>	<u>1,023</u>	<u>1,369</u>	<u>1,924</u>	<u>2,287</u>
<u>840 - 859</u>	<u>750</u>	<u>817</u>	<u>1,042</u>	<u>1,383</u>	<u>1,954</u>	<u>2,326</u>
<u>860 - 879</u>	<u>778</u>	<u>845</u>	<u>1,062</u>	<u>1,420</u>	<u>1,991</u>	<u>2,360</u>
<u>880 - 899</u>	<u>806</u>	<u>869</u>	<u>1,082</u>	<u>1,453</u>	<u>2,022</u>	<u>2,394</u>
<u>900 - 919</u>	<u>829</u>	<u>897</u>	<u>1,101</u>	<u>1,489</u>	<u>2,064</u>	<u>2,428</u>
<u>920 - 939</u>	<u>854</u>	<u>924</u>	<u>1,128</u>	<u>1,521</u>	<u>2,085</u>	<u>2,460</u>
<u>940 - 959</u>	<u>885</u>	<u>948</u>	<u>1,144</u>	<u>1,555</u>	<u>2,123</u>	<u>2,491</u>
<u>960 - 979</u>	<u>907</u>	<u>976</u>	<u>1,164</u>	<u>1,587</u>	<u>2,160</u>	<u>2,528</u>
<u>980 - 999</u>	<u>936</u>	<u>1,000</u>	<u>1,184</u>	<u>1,619</u>	<u>2,190</u>	<u>2,559</u>
<u>1000 - 1019</u>	<u>992</u>	<u>1,065</u>	<u>1,236</u>	<u>1,705</u>	<u>2,291</u>	<u>2,670</u>
<u>1020 - 1039</u>	<u>1,019</u>	<u>1,095</u>	<u>1,275</u>	<u>1,754</u>	<u>2,361</u>	<u>2,749</u>
<u>1040 - 1059</u>	<u>1,050</u>	<u>1,122</u>	<u>1,312</u>	<u>1,807</u>	<u>2,429</u>	<u>2,831</u>
<u>1060 - 1079</u>	<u>1,082</u>	<u>1,162</u>	<u>1,350</u>	<u>1,861</u>	<u>2,504</u>	<u>2,915</u>
<u>1080 - 1099</u>	<u>1,114</u>	<u>1,196</u>	<u>1,391</u>	<u>1,915</u>	<u>2,578</u>	<u>3,002</u>
<u>1100 - 1119</u>	<u>1,146</u>	<u>1,231</u>	<u>1,433</u>	<u>1,974</u>	<u>2,654</u>	<u>3,094</u>
<u>1120 - 1139</u>	<u>1,181</u>	<u>1,270</u>	<u>1,477</u>	<u>2,032</u>	<u>2,735</u>	<u>3,185</u>
<u>1140 - 1159</u>	<u>1,216</u>	<u>1,306</u>	<u>1,520</u>	<u>2,093</u>	<u>2,818</u>	<u>3,281</u>
<u>1160 - 1179</u>	<u>1,252</u>	<u>1,343</u>	<u>1,566</u>	<u>2,156</u>	<u>2,901</u>	<u>3,379</u>
<u>1180 - 1199</u>	<u>1,291</u>	<u>1,385</u>	<u>1,611</u>	<u>2,220</u>	<u>2,989</u>	<u>3,481</u>
<u>1200 - 1219</u>	<u>1,330</u>	<u>1,426</u>	<u>1,659</u>	<u>2,287</u>	<u>3,077</u>	<u>3,584</u>
<u>1220 - 1239</u>	<u>1,369</u>	<u>1,469</u>	<u>1,709</u>	<u>2,356</u>	<u>3,169</u>	<u>3,691</u>
<u>1240 - 1259</u>	<u>1,409</u>	<u>1,512</u>	<u>1,760</u>	<u>2,425</u>	<u>3,265</u>	<u>3,801</u>
<u>1260 - 1279</u>	<u>1,450</u>	<u>1,556</u>	<u>1,812</u>	<u>2,498</u>	<u>3,363</u>	<u>3,914</u>
<u>1280 - 1299</u>	<u>1,493</u>	<u>1,604</u>	<u>1,867</u>	<u>2,574</u>	<u>3,462</u>	<u>4,032</u>
<u>1300 - 1319</u>	<u>1,539</u>	<u>1,650</u>	<u>1,922</u>	<u>2,649</u>	<u>3,566</u>	<u>4,153</u>
<u>1320 - 1339</u>	<u>1,586</u>	<u>1,699</u>	<u>1,981</u>	<u>2,729</u>	<u>3,672</u>	<u>4,277</u>
<u>1340 - 1359</u>	<u>1,631</u>	<u>1,752</u>	<u>2,040</u>	<u>2,810</u>	<u>3,782</u>	<u>4,406</u>
<u>1360 - 1379</u>	<u>1,681</u>	<u>1,803</u>	<u>2,100</u>	<u>2,895</u>	<u>3,894</u>	<u>4,536</u>
<u>1380 - 1399</u>	<u>1,730</u>	<u>1,856</u>	<u>2,164</u>	<u>2,981</u>	<u>4,011</u>	<u>4,674</u>
<u>1400 - 1419</u>	<u>1,782</u>	<u>1,912</u>	<u>2,226</u>	<u>3,069</u>	<u>4,131</u>	<u>4,813</u>
<u>1420 - 1439</u>	<u>1,835</u>	<u>1,970</u>	<u>2,294</u>	<u>3,162</u>	<u>4,256</u>	<u>4,958</u>
<u>1440 - 1459</u>	<u>1,891</u>	<u>2,029</u>	<u>2,364</u>	<u>3,256</u>	<u>4,383</u>	<u>5,105</u>
<u>1460 - 1479</u>	<u>1,945</u>	<u>2,089</u>	<u>2,432</u>	<u>3,353</u>	<u>4,514</u>	<u>5,258</u>
<u>1480 - 1499</u>	<u>2,003</u>	<u>2,151</u>	<u>2,506</u>	<u>3,452</u>	<u>4,648</u>	<u>5,414</u>
<u>1500 & Over</u>	<u>2,064</u>	<u>2,216</u>	<u>2,581</u>	<u>3,558</u>	<u>4,786</u>	<u>5,576</u>

WSR 07-09-010
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed April 6, 2007, 10:22 a.m.]

Continuance of WSR 07-08-004.

Preproposal statement of inquiry was filed as WSR 06-11-071.

Title of Rule and Other Identifying Information: Chapter 16-54 WAC, Animal importation, subsequent to public hearings, the department is extending the comment period and adoption date.

Date of Intended Adoption: May 1, 2007.

Submit Written Comments to: Teresa Norman, 1111 Washington Street S.E., Olympia, WA 98504, e-mail WSDA RulesComments@agr.wa.gov, fax (360) 902-2092, by April 30, 2007.

Assistance for Persons with Disabilities: Contact WSDA Receptionist by April 18, 2007, TTY (360) 902-1996 or (360) 902-1976.

Statutory Authority for Adoption: Chapters 16.36 and 34.05 RCW.

Statute Being Implemented: Chapter 16.36 RCW.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Leonard Eldridge, Olympia, (360) 902-1881.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328.

April 6, 2007

Leonard E. Eldridge, DVM
 State Veterinarian

WSR 07-09-011
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed April 6, 2007, 10:24 a.m.]

Continuance of WSR 07-08-003.

Preproposal statement of inquiry was filed as WSR 06-02-040.

Title of Rule and Other Identifying Information: Chapter 16-25 WAC, Disposal of dead livestock, subsequent to public hearings, the department is extending the comment period and adoption date.

Date of Intended Adoption: May 1, 2007.

Submit Written Comments to: Teresa Norman, 1111 Washington Street S.E., Olympia, WA 98504, e-mail WSDA RulesComments@agr.wa.gov, fax (360) 902-2092, by April 30, 2007.

Assistance for Persons with Disabilities: Contact WSDA Receptionist by April 18, 2007, TTY (360) 902-1996 or (360) 902-1976.

Statutory Authority for Adoption: Chapters 16.36, 16.68, and 34.05 RCW.

Statute Being Implemented: Chapter 16.36 RCW.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Leonard Eldridge, Olympia, (360) 902-1881.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no economic impact associated with these rule amendments.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency in RCW 34.05.328 (5)(a)(i).

April 4, 2007

Robert W. Gore
 Deputy Director

WSR 07-09-040
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed April 11, 2007, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-05-050.

Title of Rule and Other Identifying Information: WAC 392-129-105 Definition—Reasonable effort, where a school district resides in a county which was declared a state of emergency proclamation by the governor and a district-wide closure exists, the superintendent may consider school district application to have met the "reasonable effort" test by providing at least the district-wide annual average total instruction hour offerings (1000 hours).

Hearing Location(s): Office of Superintendent of Public Instruction, Old Capitol Building, Brouillet Conference Room, 600 South Washington, Olympia, WA 98504-7200, on May 25, 2007, at 9 a.m.

Date of Intended Adoption: May 28, 2007.

Submit Written Comments to: Jennifer Priddy, Assistant Superintendent, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, e-mail jennifer.priddy@k12.wa.us, fax (360) 664-3683, by May 24, 2007.

Assistance for Persons with Disabilities: Contact Tony May by May 24, 2007, TTY (360) 664-3631 or (360) 725-6000.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In the past, school districts were required to make-up the first three days of any closure incident and could apply for a waiver of the remaining days of the incident. With the new addition of subsection (3), the office of superintendent of public instruction is offering some relief to districts hit hard by this year's winter storms.

Reasons Supporting Proposal: We believe that this WAC will give school districts, families, and teachers some relief from the extreme weather impacts they have experienced earlier this school year by allowing some flexibility in scheduling the minimum required instructional hours.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: WAC 392-129-105.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jennifer Priddy, Office of Superintendent of Public Instruction, (360) 725-6111.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328.

April 11, 2007

Catherine Davidson, Ed.D.
Chief of Staff

AMENDATORY SECTION (Amending Order 22, filed 12/20/89, effective 1/20/90)

WAC 392-129-105 Definition—Reasonable effort. As used in this chapter, "reasonable effort" means the:

(1) Extension of the school year to and through June 14th; and

(2) Use of scheduled vacation days and foreseeable school closure days, to attain the minimum number of school days and ~~((program hour offerings, teacher contact hours, and course mix and percentages))~~ district-wide annual average total instruction hour offerings required by law. In no case, except as provided in subsection (3) of this section, shall a school district be considered to have made a reasonable effort unless at least three school days, per incident, and ~~((program hour offerings, teacher contact hours, and course mix percentage))~~ district-wide annual average total instruction hour offerings which have been lost have in fact been made up.

(3) Where a school district resides in a county which was declared a state of emergency proclamation by the governor due to fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption, and the emergency impacted district-wide facilities or operations, the superintendent may consider school district applications to have met the "reasonable effort" test by providing at least the district-wide annual average total instruction hour offerings.

WSR 07-09-041
PROPOSED RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY

[Filed April 11, 2007, 11:44 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: SCAPCA Regulation I, Article II, Section 2.14 - Washington

Administrative Codes; SCAPCA Regulation I, Article X, Section 10.07 - Application and Permit Fees for Notice of Construction and Application for Approval (NOC) and for Notice of Intent to Install and Operate a Temporary Stationary Source (NOI); and SCAPCA Regulation I, Article X, Section 10.08 - Miscellaneous Fees.

Hearing Location(s): Spokane County Public Works Building, 1206 West Broadway, Hearing Room Lower Level, Spokane, WA 99201, on June 7, 2007, at 9:00 a.m.

Date of Intended Adoption: June 7, 2007.

Submit Written Comments to: Matt Holmquist, 1101 West College, Suite 403, Spokane, WA 99201, e-mail mgholmquist@scapca.org, fax (509) 477-6828, by 4:30 p.m. on May 22, 2007.

Assistance for Persons with Disabilities: Contact Barbara Nelson by 4:30 p.m. on May 22, 2007, (509) 477-4727.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Section 2.14 - Update regulation references.

Sections 10.07 and 10.08 - Amend NOC and NOI permitting fees to achieve full program cost recovery. Currently, rates for NOC, NOI, and miscellaneous fees are set through the formal rule-making process of the Administrative Procedure Act. By statute and/or board direction, certain programs are subject to fee-based cost recovery. Fees will be determined by the following methodology: NOC and NOI - Fees, based on actual and/or projected direct and indirect costs associated with the agencies "NOC program," will be established to recover total program costs. In general, fees will be based on the amount of time and/or complexity of the permit reviewed/processed. Miscellaneous - Fees will be based on average hourly staff rates, which account for salary, benefits and overhead. The new regulation outlines the fee-component structure and requires the Spokane County Air Pollution Control Authority (SCAPCA's) board to utilize the fee structure to set the fees and periodically review the fees to ensure that full cost recovery is being achieved. If full cost recovery is not achieved, adjustments to the fees either upward or downward may be made by the board. Both the original determination of the fee and any subsequent adjustments would be preceded by public notice, a public comment period and a public hearing. The anticipated effect of the rule change is to maintain improved correlation between fee-based revenue and actual program costs.

Reasons Supporting Proposal: Section 2.14 - Maintain accurate regulations.

Sections 10.07 and 10.08 - SCAPCA NOC and NOI fee schedule has not been adjusted in over a decade.

Refer also to the section above, regarding purpose of the proposal.

Statutory Authority for Adoption: RCW 70.94.141(1), 70.94.152 - [70.94.]155.

Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: SCAPCA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Matt Holmquist, SCAPCA, 1101 West College, Suite 403, Spokane, WA 99201, (509) 477-4727.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a local air pollution control authority rule and as such, chapter 19.85 RCW does not apply.

A cost-benefit analysis is not required under RCW 34.05.328. This is a local agency rule and pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule.

April 11, 2007

Matt Holmquist

Compliance Administrator

AMENDATORY SECTION

SCAPCA REGULATION I, ARTICLE II, SECTION 2.14 WASHINGTON ADMINISTRATIVE CODES (WACS)

A. The Authority implements and enforces the following Washington State WACs:

1. Chapter 173-400 WAC - General regulations for air pollution sources

a. Except for the following sections;

1) Source Registration

(a) WAC 173-400-100 - Registerable source

(b) WAC 173-400-102 - Scope of registration and reporting requirements

(i) SCAPCA Regulation I, Article IV, replaces the registration requirements in WACs 173-400-100 & 102 for all air pollution sources in Spokane County.

2) Stationary, portable and temporary source permitting

(a) WAC 173-400-035 - Portable and temporary sources,

(i) SCAPCA Regulation I, Article V, Sections 5.02.A.9, 5.02.I, and 5.08 replace the permitting requirements in WAC 173-400-035 for all portable and temporary sources in Spokane County.

(b) WAC 173-400-110 - New source review,

(i) SCAPCA Regulation I, Article V replaces the permitting requirements in WAC 173-400-110 for all new stationary sources installed or operated in Spokane County.

3) Fees (SCAPCA has its own fee structure).

(a) WAC 173-400-045 - Control technology fees,

(i) SCAPCA Regulation I, Article X, Section((s ~~10.08-C~~)) 10.07 replaces the review fees in WAC 173-400-045 for performing a Reasonably Available Control Technology (RACT) determination pursuant to Chapter 173-400-040 WAC and/or RCW 70.94.161 in Spokane County.

(b) WAC 173-400-104 - Registration fees,

(i) SCAPCA Regulation I, Article X, Sections 10.06 replaces registration fees assessed in WAC 173-400-104 for each air pollution source registered with SCAPCA.

(c) WAC 173-400-116 - New source review fees,

(i) SCAPCA Regulation I, Article X, Sections 10.07 replaces the fees assessed in WAC 173-400-116 to each facility that installs or operates a new air pollution source in Spokane County.

4) Prevention of significant deterioration (PSD) program

(a) WAC 173-400-730 Prevention of significant deterioration application processing procedures,

(b) WAC 173-400-740 PSD permitting public involvement requirements, and

(c) WAC 173-400-750 Revisions to PSD permits.

(i) Ecology administers the Prevention of significant deterioration program (PSD); however, SCAPCA enforces it in Spokane County.

2. Chapter 173-401 WAC - Operating Permit Regulation

3. Chapter 173-425 WAC - Outdoor burning

4. Chapter 173-430 WAC - Agricultural burning

5. Chapter 173-433 WAC - Solid fuel burning devices

6. Chapter 173-434 WAC - Solid waste incinerator facilities

7. Chapter 173-435 WAC - Emergency episode plan

8. Chapter 173-460 WAC - Controls for new sources of toxic air pollutants

9. Chapter 173-470 WAC - Ambient air quality standards for particulate matter

10. Chapter 173-474 WAC - Ambient air quality standards for sulfur oxides

11. Chapter 173-475 WAC - Ambient air quality standards for carbon monoxide, ozone, and nitrogen dioxide

12. Chapter 173-490 WAC - Emission standards and controls for sources emitting volatile organic compounds (VOC)

13. Chapter 173-491 WAC - Emission standards and controls for sources emitting gasoline vapors

REPEALER

The following sections of Spokane County Air Pollution Control Authority (SCAPCA) Regulation I are repealed:

SCAPCA REGULATION I, ARTICLE X, SECTION 10.07 APPLICATION AND PERMIT FEES FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL (NOC) AND FOR NOTICE OF INTENT TO INSTALL AND OPERATE A TEMPORARY STATIONARY SOURCE (NOI)

SCAPCA REGULATION I, ARTICLE X, SECTION 10.08 MISCELLANEOUS FEES

NEW SECTION

SCAPCA REGULATION I, ARTICLE X FEES AND CHARGES

SECTION 10.07 APPLICATION AND PERMIT FEES FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL (NOC) AND FOR NOTICE OF INTENT TO INSTALL AND OPERATE A TEMPORARY STATIONARY SOURCE (NOI)

The fees contained in Section 10.07 do not apply to air operating permit sources.

A. NOC and NOI Fees

1. Base Fee

a. For each project required by Article V to file a NOC or a NOI, the applicant shall pay a base fee pursuant to the fee schedule. Base fee classes are listed below.

i. Class I - Notice of Intent Permit

Notice of Intent permits for portable stationary sources and temporary stationary sources include the following:

<u>Source/Source Category Description</u>	<u>Article IV, Exhibit R Category</u>
(a) Asphalt plant	15
(b) Concrete batch plant / ready mix plant	22
(c) Rock crusher	36

ii. Class II - Simple Notice of Construction Permit

Simple permits generally conform to a template and involve minimal off-site impact evaluation. They include the following:

<u>Source/Source Category Description</u>	<u>Article IV, Exhibit R Category</u>
(a) Boiler and other fuel-burning equipment	27
(b) Coffee roaster	20
(c) Concrete batch plant/ready mix plant	22
(d) Dry cleaner	23
(e) Emergency generator	52
(f) Gasoline dispensing facility	28
(g) Lithographic printing/screen printing	9.e.5
(h) Material handling that exhausts \geq 1,000 acfm	24
(i) Rock crusher	36
(j) Spray booth/surface coating operation	57
(k) Stationary internal combustion engine	53
(l) Sterilizer	9.e.8
(m) Stump/wood waste grinder	54

iii. Class III - Standard Notice of Construction Permit

Standard permits generally include those that don't conform to a template and involve minimal off-site impact evaluation. They include the following:

<u>Source/Source Category Description</u>	<u>Article IV, Exhibit R Category</u>
(a) Soil and groundwater remediation operation	9.e.7
(b) Burn out oven	43
(c) Chrome plating	35
(d) Incinerator / crematory	31

iv. Class IV - Complex Notice of Construction Permit

Complex permits generally include those that don't conform to a template and involve more complex off-site impact evaluation. They include the following:

<u>Source/Source Category Description</u>	<u>Article IV, Exhibit R Category</u>
(a) Asphalt plant	15
(b) Composting	21

<u>Source/Source Category Description</u>	<u>Article IV, Exhibit R Category</u>
(c) Refuse systems	48
(d) Rendering	49
(e) Sewerage systems	50

b. For sources / source categories not listed in Section 10.07.A.1.a, above, NOI and NOC application review will be assigned to Class I, II, III or IV by the Control Officer on a case-by-case basis.

c. For sources with one or more emission points under one NOC application, as allowed in Section 5.02.G, a separate base fee applies to each emissions unit, or each group of like-kind emissions units, being installed or modified. A group of emissions units shall be considered as like-kind if the same set of emission calculations can be used to characterize emissions from each of the emissions units.

2. Modification / Revision Fee

a. Equipment Modification Fee

Applicants of sources requesting a change in equipment (e.g., replacement or substantial alteration of emission control technology) pursuant to Section 5.10.C of this Regulation shall pay a fee pursuant to the fee schedule.

b. Permit Condition Revision Fee

Applicants of sources requesting a change in conditions pursuant to Section 5.10.C of this Regulation shall pay a fee pursuant to the fee schedule.

3. Additional Fees (for each application)

a. SEPA Review Fee

Where review of an Environmental Impact Statement (EIS), Environmental Checklist, or an addendum to, or adoption of, an existing environmental document pursuant to the State Environmental Policy Act (SEPA) Chapter 197-11 WAC is required, in association with a NOC or a NOI, the applicant shall pay a SEPA or EIS review fee pursuant to the fee schedule.

b. Toxics Review Fee

For any new source of air pollution which requires review pursuant to chapter 173-460 WAC, a toxic air pollutant review fee shall be paid. For sources with one or more emission points under one NOC application, as allowed in Section 5.02.G, a separate toxic air pollutant review fee applies to each emissions unit, or each group of like-kind emissions units, being installed or modified. A group of emissions units shall be considered as like-kind if the same set of emission calculations can be used to characterize emissions from each of the emissions units. The toxic air pollutant review fee shall be as follows:

i. Small Quantity Emission Rate (SQER)

For a new source using WAC 173-460-080 (2)(e), SQER, to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070 & WAC 173-460, the applicant shall pay a SQER review fee pursuant to the fee schedule.

ii. Dispersion Modeling

For a new source using dispersion screening models (e.g., EPA SCREEN or TSCREEN) under WAC 173-460-080 (2)(c) to demonstrate that ambient impacts are suffi-

ciently low to protect human health and safety, as required WAC 173-460-070, the applicant shall pay a dispersion modeling review fee pursuant to the fee schedule.

iii. Advanced Modeling

For a new source using more refined dispersion models (e.g., EPA ISC3) under WAC 173-460-080 (2)(c) to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070; or for a new or modified source using a second tier analysis under WAC 173-460-090 or a risk management decision under WAC 173-460-100 to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070, the applicant shall pay the advanced modeling review fee in the fee schedule.

c. New Source Performance Standards (NSPS) Review Fee

Applicants of any new air pollution source subject to WAC 173-400-115 (NSPS) and 40 CFR Parts 60 shall pay a NSPS review fee according to the fee schedule.

d. National Emission Standard for Hazardous Air Pollutants (NESHAP) Review Fee

Applicants of any new air pollution source subject to WAC 173-400-075 (NESHAP) and 40 CFR Parts 61 and 63 shall pay a NESHAP fee according to the fee schedule.

e. Best Available Control Technology (BACT) Review Fee

i. Generic BACT

Where no BACT review is required (e.g., the applicant demonstrates there is an established and/or recognized BACT standard for the source category type), a BACT review fee is not applicable.

ii. Non-Generic BACT Review

A non-generic BACT review is one where a generic BACT standard is not applicable and a top-down BACT review is not required. Applicants of any new air pollution source subject to a non-generic BACT review shall pay a non-generic BACT review fee according to the fee schedule.

iii. Top-Down BACT Review (as described in EPA's Draft New Source Review Workshop Manual from October 1990 and as summarized below)

A top-down BACT review is one that requires available control technologies be ranked in descending order of control effectiveness. The most stringent or "top" control technology is first examined. That control technology is established as BACT unless the applicant demonstrates, and the Authority concurs, that technical considerations, energy, environmental, or economic impacts justify a conclusion that the most stringent technology is not achievable in for the project being proposed. If the most stringent control technology is eliminated in this fashion, the next most stringent control technology is considered, and so on. Applicants of any new air pollution source subject to a top-down BACT review shall pay a top-down BACT review fee according to the fee schedule.

B. Payment of Fees

1. At the Time of Application

The base fee shall be paid at the time of application. Review of the application will not commence until the applicable base fee is received.

2. After Application

a. Payment of Fees for Complete Applications

The Authority will invoice the owner, operator, or applicant for all other applicable fees without regard to whether the request(s) associated with this section are approved or denied.

b. Payment of Fees for Incomplete Applications

If an owner, operator, or applicant notifies SCAPCA in writing that an incomplete application will not be completed or cancels the application (i.e., the application is neither approved or denied), applicable fees for review performed pursuant to A.2 and A.3 of this section shall be invoiced. If an application remains incomplete for more than 3 months, the owner, operator, or applicant shall be invoiced applicable fees for review performed pursuant to A.2 and A.3 of this section. If review of the application recommences, applicable review fees apply.

C. Incomplete Applications

Applications not accompanied by the base fee will be considered incomplete. In addition, if information requested by the Authority is not provided, the application will be considered incomplete and review of the application will be suspended. Review of the application will commence, or recommence when applicable, when all required fees and information requested by the Authority is received. An application will be cancelled if it remains incomplete for more than 18 months from initial receipt. For review of the cancelled application to resume, the applicant must pay all outstanding invoice fees, if applicable, and resubmit the applicable base fee.

D. Compliance Investigation Fee

Where a compliance investigation is conducted pursuant to Section 5.12 of this Regulation, the compliance investigation fee shall be assessed pursuant to the fee schedule. The fee shall be assessed for each emissions unit, or group of like-kind emissions units, being installed or modified. A group of emissions units shall be considered as like-kind if the same set of emission calculations can be used to characterize emissions from each of the emissions units.

E. Periodic Fee Review

The Board shall periodically review the fee schedule and determine if the total actual fee revenue collected and projected fee revenue to be collected pursuant to this Section is sufficient to fully recover program costs. Any proposed fee revisions shall include opportunity for public review and comment. Accordingly, the Authority shall account for program costs, including employee costs and overhead. If the Board determines that the total project fee revenue is either significantly excessive or deficient for this purpose, then the Board shall amend the fee schedule to more accurately recover program costs. In general, fees will be greater for permits that are typically more complex or take more time to review and process.

SECTION 10.08 MISCELLANEOUS FEES

A. Miscellaneous Fees

1. Emission Reduction Credit

Review of emission reduction credits pursuant to WAC 173-400-131 shall require the applicant to pay an emission reduction credit fee pursuant to the fee schedule.

2. Variance Request

Processing a variance request pursuant to RCW 70.94.181 or Article III of this Regulation shall require the applicant to pay a fee pursuant to the fee schedule.

3. Alternate Opacity

Review of an alternate opacity limit pursuant to RCW 70.94.331 (2)(c) shall require the applicant to pay an alternate opacity fee pursuant to the fee schedule.

4. Other

Applicants of other services including those listed below shall pay a fee pursuant to the fee schedule.

(a) Requests pursuant to the following sections of this Regulation: Sections 6.13.E.3.j; 6.13.F.4; 6.13.F.6; 6.13.F.9; 6.13.F.10; and 6.13.F.11.

(b) Registration exemption requests.

(c) Other.

B. Periodic Fee Review

The Board shall periodically review the fee schedule and determine if the total actual fee revenue collected and projected fee revenue to be collected pursuant to this Section is sufficient to fully recover program costs. Any proposed fee revisions shall include opportunity for public review and comment. Accordingly, the Authority shall account for program costs, including employee costs and overhead. If the Board determines that the total project fee revenue is either significantly excessive or deficient for this purpose, then the Board shall amend the fee schedule to more accurately recover program costs. Fees in the fee schedule will be based on actual and projected employee costs and overhead. Fees will be set at an hourly rate.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 07-09-059
PROPOSED RULES
ENERGY FACILITY SITE
EVALUATION COUNCIL

[Filed April 13, 2007, 1:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-13-030.

Title of Rule and Other Identifying Information: Chapter 463-28 WAC, State preemption (all subsections); chapter 463-47 WAC, SEPA rules (WAC 463-47-060, 463-47-090, 463-47-110, and 463-47-140); and chapter 463-66 WAC, Amending, transferring, or termination a site certification agreement (WAC 463-66-040, 463-66-070, and 463-66-080).

Hearing Location(s): Energy Facility Site Evaluation Council, 3rd Floor, Building 4, 925 Plum Street S.E., Olympia, WA 9850 [98504], on June 12, 2007, at 3:00 p.m.; and at the Yakima Area Arboretum, 1401 Arboretum Drive, Yakima, WA 98901, on June 13, 2007, at 2:00 p.m.

Date of Intended Adoption: July 10, 2007.

Submit Written Comments to: Allen Fiksdal, P.O. Box 43712, Olympia, WA 98504-3172, e-mail efsec@cted.wa.gov, fax (360) 956-2158, by June 13, 2007.

Assistance for Persons with Disabilities: Contact Tammy Talburt by June 1, 2007, (360) 956-2121.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 463-28 WAC, State preemption. Changes would expedite the siting of energy facilities where a project is found to be inconsistent with local land use plans and zoning ordinances by eliminating the requirement for the application to try to get local government to change land use plans or zoning ordinances prior to an adjudicative hearing.

Chapter 463-47 WAC, SEPA rules. Changes would streamline and reduce costs of siting energy facilities by (1) providing EFSEC the option of having SEPA documents prepared by EFSEC, and independent consultants, or the applicant; (2) giving EFSEC the option of preparing a final environmental impact statement before or after an adjudicative hearing; and (3) changing the immediate responsibility for SEPA activities from the council to the council's responsible official.

Chapter 463-66 WAC, Amending, transferring, or terminating a site certification agreement. Changes will clarify and expedite the process for amending site certification agreement by having EFSEC to approve all amendments to site certification agreements.

Reasons Supporting Proposal: These proposed rule changes would streamline EFSEC's siting of energy facilities and other regulator administrative processes, saving time and costs associated with these requirements.

Statutory Authority for Adoption: RCW 80.50.040.

Statute Being Implemented: Chapter 80.50 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: EFSEC has determined that RCW 80.50.110 provides the basis for the proposed changes to chapter 463-28 WAC and these proposed changes to this chapter will streamline EFSEC's procedure where a project is inconsistent with local land use plans and zoning ordinances. The proposed changes to chapters 463-47 and 463-66 WAC will streamline EFSEC's regulatory process and will provide savings in time and costs to applicants and certificate holders by eliminating or providing options to EFSEC so it can conduct its business more efficiently.

Name of Proponent: Energy facility site evaluation council, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Allen Fiksdal, 925 Plum Street S.E., Olympia, WA 98504, (360) 956-2152.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Over the past thirty years, the businesses that have come to EFSEC for the siting and operation of large energy facilities that the EFSEC's rules have all had more [than] fifty employees. EFSEC currently regulates or is conducting siting reviews for the following companies: Energy Northwest (1,054 employees), Invenergy (130) employees, Horizon Energy (102) employees, Puget Sound Energy (2,400 employees), BP (700 local and 100,000 world-wide employees), and Suez Energy (x,xxx) employ-

ees. EFSEC does not expect small business to enter into this industry or be impacted by its rules.

A cost-benefit analysis is not required under RCW 34.05.328. These are not significant legislative rules as defined in RCW 34.05.328 because (1) EFSEC is not one of the listed agencies and (2) these are procedural and interpretative rules as defined by RCW 34.05.328 (5)(c)(i) and (ii), not "significant legislative rules" under [subsection (5)(c)] (iii). In addition EFSEC believes that the proposed changes to these rules will expedite its regulatory process by eliminating duplicative land use consistency reviews, allow EFSEC to choose more cost-effective SEPA document preparation, and allow EFSEC to make all decisions regarding amendments to site certification agreements. These proposed rule changes will reduce the time and costs to applicants during an application review and to certificate holders during amendments to site certification agreements. It will also reduce EFSEC's costs which are charged directly to the applicants and certificate holders because of the elimination and streamlining of administrative procedures and process.

April 13, 2007

Allen J. Fiksdal

EFSEC Manager

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-28-010 Purpose. This chapter sets forth procedures to be followed by the council in determining whether to recommend to the governor that the state preempt ~~((local))~~ land use plans ~~((or))~~, zoning ordinances, or other development regulations for a site or portions of a site for an energy facility, or alternative energy facility.

AMENDATORY SECTION (Amending WSR 91-03-090, filed 1/18/91, effective 2/18/91)

WAC 463-28-060 ~~((Request for preemption))~~ Adjudicative proceeding. (1) Should ~~((an applicant elect to continue processing the application and file a request with the council for state preemption.))~~ the council determine under WAC 463-26-110 a site or any portions of a site is inconsistent it will schedule an adjudicative proceeding ~~((hearing on the application as specified))~~ under chapter 463-30 WAC to consider preemption.

(2) The proceeding for preemption may be combined or scheduled concurrent with the adjudicative proceeding held under RCW 80.50.090(3).

(3) The council shall determine ~~((during the adjudicative proceeding))~~ whether to recommend to the governor that the state ~~((should))~~ preempt the ~~((local))~~ land use plans ~~((or))~~, zoning ordinances, or other development regulations for a site or portions of a site for the energy facility or alternative energy resource proposed by the applicant. ~~((The factors to be evidenced under this issue are those set forth in WAC 463-28-040. The determination of preemption shall be by council order, and shall be included in its recommendation to the governor pursuant to RCW 80.50.100.))~~

AMENDATORY SECTION (Amending Order 78-3, filed 6/23/78)

WAC 463-28-070 Certification—Conditions—State/local interests. If the council approves the request for preemption it shall include conditions in the draft certification agreement which ~~((give due consideration to))~~ consider state or local governmental or community interests affected by the construction or operation of the energy facility or alternative energy resource and the purposes of laws or ordinances, or rules or regulations promulgated thereunder that are preempted ~~((or superseded))~~ pursuant to RCW 80.50.110(2).

AMENDATORY SECTION (Amending WSR 91-03-090, filed 1/18/91, effective 2/18/91)

WAC 463-28-080 Preemption—~~((Failure to justify))~~ Recommendation. ~~((During the adjudicative proceeding, if the council determines that the applicant has failed to justify the request for state preemption, the council shall do so by issuance of an order accompanied by findings of fact and conclusions of law. Concurrent with the issuance of its order, the council shall report to the governor its recommendation for rejection of certification of the energy facility proposed by the applicant.))~~ The council's determination on a request for preemption shall be part of its recommendation to the governor pursuant to RCW 80.50.100.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 463-28-030	Determination of noncompliance—Procedures.
WAC 463-28-040	Inability to resolve noncompliance.
WAC 463-28-050	Failure to request preemption.

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-47-060 Additional timing considerations. (1) The council will determine when it receives an application whether the proposal is an "action" and, if so, whether it is "categorically exempt" from SEPA. If the proposal is an action and is not exempt, the council will request the applicant to complete an environmental checklist. A checklist is not needed if the council and applicant agree an EIS is required, SEPA compliance has been completed, SEPA compliance has been initiated by another agency, or a checklist is included with the application. The applicant should also complete an environmental checklist if the council is unsure whether the proposal is exempt.

(2) The council may initiate an adjudicative proceeding ~~((hearing))~~ required by RCW 80.50.090 prior to completion of the draft EIS. ~~((The council shall initiate and conclude an adjudicative proceeding prior to issuance of the final EIS.))~~

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-47-090 EIS preparation. (1) Preparation of draft and final EISs (~~(and)~~), SEISs, or addenda is the responsibility of the council. (~~((Before the council issues an EIS,))~~) The responsible official shall be satisfied that (~~((it complies))~~) these documents comply with these rules and chapter 197-11 WAC prior to issuance.

(2) The council (~~((normally will))~~) has the following options for draft and final EISs, SEISs, or addenda preparation:

(a) The council prepares its own (~~((draft and final EISs. It may))~~) documents.

(b) The council's independent consultant prepares any or all of the documents under the supervision of the responsible official.

(c) The council requires the applicant to prepare the documents with oversight from the responsible official.

(3) If the council prepares its own draft and final EISs, SEISs, or addenda, or its independent consultant prepares them, the council can require an applicant to provide information that the council or independent consultant does not possess, including specific investigations.

~~((3)) If the council would be unable to prepare a draft and/or final EIS due to its commitments or other constraints the council may allow an applicant the following option for preparation of the draft and/or final EIS for the applicant's proposal:~~

(~~(a))~~) (4) The applicant (~~((and the council agree upon a method of funding in which the applicant will))~~) shall bear the expense of the (~~(EIS))~~ draft and final EISs, SEISs, or addenda preparation, but the consultant will work directly for the council.

~~((b)) The outside party will prepare the document under the supervision of the council or council subcommittee, and the responsible official.~~

(~~(e))~~) (5) Normally, the council will have the documents printed and distributed.

~~((4))~~) (6) Whenever someone other than the council prepares a draft or final EISs, SEISs, or addenda, the (~~((council shall))~~) responsible official:

(a) May direct the areas of research and examination to be undertaken and the content and organization of the document.

(b) Shall initiate and coordinate scoping, ensuring that the individuals preparing the (~~(EIS))~~ documents receive(~~(s))~~) all substantive information submitted by any agency or person.

(c) Shall assist in obtaining information on file with (~~(another agency))~~) other agencies that is needed by the persons preparing the (~~(EIS))~~ document.

(d) Shall allow the person preparing the (~~(EIS))~~ document access to council records relating to the (~~(EIS))~~ document (under chapter 42.17 RCW—Public disclosure and public records law).

AMENDATORY SECTION (Amending Order 84-2, filed 9/14/84)

WAC 463-47-110 Policies and procedures for conditioning or denying permits or other approvals. (1)(a) The overriding policy of the council is to avoid or mitigate adverse environmental impacts which may result from the council's decisions.

(b) The council shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The council recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(d) The council shall ensure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations.

(2)(a) When the environmental document for a proposal shows it will cause significant adverse impacts that the proponent does not plan to mitigate, the council shall consider whether:

(i) The environmental document identified mitigation measures that are reasonable and capable of being accomplished;

(ii) Other local, state, or federal requirements and enforcement would mitigate the significant adverse environmental impacts; and

(iii) Reasonable mitigation measures are sufficient to mitigate the significant adverse impacts.

(b) The council may:

(i) Condition the approval or recommendation for approval for a proposal if mitigation measures are reasonable and capable of being accomplished and the proposal is inconsistent with the policies in subsection (1) of this section.

(ii) Reject or recommend rejection of the application if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and the proposal is inconsistent with the policies in subsection (1) of this section.

(c) The procedures in WAC 197-11-660 must also be followed when conditioning, denying or recommending permits or ~~(rejection of)~~ rejecting applications.

AMENDATORY SECTION (Amending Order 84-2, filed 9/14/84)

WAC 463-47-140 Responsibilities of the council's responsible official. The ~~((council))~~ EFSEC manager shall be responsible for the following:

- (1) Coordinating activities to comply with SEPA and encouraging consistency in SEPA compliance.
- (2) Providing information and guidance on SEPA and the SEPA rules to council, council staff, groups, and citizens.
- (3) Reviewing SEPA documents falling under council interests and providing the department of ecology with comments.
- (4) Maintaining the files for EISs, DNSs, and scoping notices, and related SEPA matters.
- (5) Writing and/or coordinating EIS preparation, including scoping and the scoping notice, making sure to work with interested agencies.
- (6) Publishing and distributing its SEPA rules and amending its SEPA rules, as necessary.
- (7) Fulfilling the council's other general responsibilities under SEPA and the SEPA rules.

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-66-040 Amendment review. In reviewing any proposed amendment, the council shall consider whether the proposal is consistent with:

- (1) The intention of the original SCA;
- (2) Applicable laws and rules; ~~((and))~~
- (3) The public health, safety, and welfare; and
- (4) The provisions of chapter 463-72 WAC.

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-66-070 Approval by council action. An amendment request ~~((which does not substantially alter the substance of any provisions of the SCA, or which is determined not to have a significant detrimental effect upon the environment))~~ shall be effective upon approval by the council. Such approval may be in the form of a council resolution or order.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 463-66-080 Approval by governor.

**WSR 07-09-061
PROPOSED RULES
DEPARTMENT OF LICENSING**

[Filed April 16, 2007, 8:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-24-122.

Title of Rule and Other Identifying Information: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc., specifically WAC 308-56A-210 Ownership in doubt and chapter 308-93 WAC, Vessel registration and certificates of title, specifically WAC 308-93-440 Vessel ownership in doubt.

Hearing Location(s): Department of Licensing, Conference Room 108, 1125 Washington Street S.E., Olympia, WA 98507, on May 22, 2007, at 2:00 p.m.

Date of Intended Adoption: June 19, 2007.

Submit Written Comments to: Dale R. Brown, P.O. Box 2957, Mailstop 48205, 1125 Washington Street S.E., Olympia, WA 98507-2957, e-mail dbrown@dol.wa.gov, fax (360) 902-7821 or 902-7822, by May 21, 2007.

Assistance for Persons with Disabilities: Contact Dale R. Brown by May 21, 2007, TTY (360) 664-8885.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule making is required to clarify language.

Reasons Supporting Proposal: Language was confusing to customers.

Statutory Authority for Adoption: RCW 46.01.110.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: [Department of Licensing] 1125 Washington Street S.E., Olympia, WA, (360) 902- [no further information supplied by agency.]

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. The contents of the proposed rules are explicitly and specifically dictated by statute.

April 12, 2007
Mykel D. Gable
Assistant Director
Vehicle Services

AMENDATORY SECTION (Amending WSR 06-22-025, filed 10/25/06, effective 11/25/06)

WAC 308-56A-210 Ownership in doubt—Bonded title or three-year registration without title. (1) ~~((What does an applicant do when an acceptable release of interest or documentation as defined in WAC 308-56A-265 is not available? When an applicant is unable to provide an acceptable release of interest or documentation, the applicant may:~~

~~Apply for registration only or bonded title as described in this rule. The applicant must:~~

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

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

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

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

(ii) If the previous owner does not respond within fifteen days after acknowledged receipt or the letter was returned unclaimed, the applicant must provide the form titled Application for Ownership in Doubt, explaining how the vehicle was acquired;

If no record is found, the applicant must provide the completed form titled, Application for Ownership in Doubt.

(d) Determine whether to apply for a bonded title or apply for registration only. A bonded title is required if the applicant is a Washington state vehicle dealer. A bond must be for a period of three years from the date of application and be in the amount of one and one-half times the value of the vehicle as determined by one of the following:

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

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

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

(a) Moped;

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

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

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

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

(f) Manufactured homes of any age.

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

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

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

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

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

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

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

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

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

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

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

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

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

Licensed vehicle dealers cannot lawfully sell vehicles that are registration only-)) **What is ownership in doubt?** Ownership in doubt is when a vehicle owner(s) is unable to obtain satisfactory evidence of ownership or releases of interest as described in WAC 308-56A-265.

(2) What options are available in an ownership in doubt situation? When in an ownership in doubt situation, the owner may:

(a) Apply for three-year registration without title; or

(b) Apply for a bonded title described in RCW 46.12.-151; or

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

(3) What documents are required when applying for a bonded title or three-year registration without title?

Required documents when applying for a bonded title or three-year registration include:

(a) The originals or copies of letters sent by registered or certified mail to the registered and legal owners of record, including the return receipt. The letters must include information regarding the applicant's claim to ownership and a request for the released certificate of ownership (title) or a notarized or certified release of interest.

(i) Registered and legal owner information will be released under WAC 308-56A-090 for applications needing that information.

(ii) If there is no Washington record, (a) of this subsection does not apply.

(iii) If the owners of record do not respond before submitting their application, the applicant must wait fifteen days from acknowledged receipt of the letter.

(iv) If the letter is returned unclaimed, the applicant must submit the letter, unopened, with the application.

(b) A bonded title or a three-year registration without title affidavit completed by the applicant and signed by all persons to be shown as a registered owner.

(c) Washington state patrol inspection, unless the vehicle is specifically exempt under subsection (4) of this section. For vehicles exempt from the Washington state patrol inspection under subsection (4) of this section, the following documents are also required:

(i) A bonded title or three-year registration without title affidavit for vehicles exempt from the Washington state patrol inspection completed and signed by a person to be shown as a registered owner; and

(ii) A legible etching or photograph of the VIN as proof of the VIN.

(d) Application for certificate of ownership (title).

(e) A bond as described in RCW 46.12.151, if the applicant is applying for a bonded title.

(f) Other documents that may be required by law or rule.

(4) Are there exemptions from the Washington state patrol inspection? Yes.

(a) Certain vehicles are exempt from the Washington state patrol inspection if:

(i) There is a Washington record; or

(ii) There is no Washington record, but the vehicle owner has a title or registration certificate issued by Washington or another jurisdiction.

(b) Vehicles exempt from the Washington state patrol inspection include:

(i) Mopeds;

(ii) Trailers with a scale weight less than two thousand pounds;

(iii) Not eligible for road use (NEFRU) vehicles as defined in WAC 308-56A-500 when the model year is ten years old or older;

(iv) Travel trailers and park model trailers when the model year is ten years old and older;

(v) Campers when the model year is ten years old and older;

(vi) Manufactured and mobile homes are exempt at all times.

(5) When is a bond required? A bond is required in ownership in doubt situations when:

(a) The applicant is a Washington state licensed vehicle dealer; or

(b) The Washington record shows there is an existing lien.

(6) How is a vehicle value determined for filing a bond? Vehicle value may be determined from one of the following sources:

(a) The department's automated valuing system; or

(b) A published appraisal guide; or

(c) Appraisal from a licensed vehicle dealer or appraisal company. The appraisal must be on company letterhead and have the business card attached; or

(d) Insured amount; or

(e) Consideration or payment plus estimated repairs by a bona fide mechanic; or

(f) Other valuing sources approved by the department.

(7) May I transfer ownership on a vehicle with a bonded title or three-year registration without title? Yes.

(a) Owners releasing interest in a vehicle with a bonded title or three-year registration without title must provide a release of interest described in WAC 308-56A-265;

(b) The new owners must submit an application for title as described in this chapter and complete the time remaining on the current ownership in doubt period.

AMENDATORY SECTION (Amending WSR 03-07-076, filed 3/18/03, effective 4/18/03)

WAC 308-93-440 Ownership in doubt—Bonded title or three-year registration without title. (1) ~~(What does an applicant do if an acceptable release of interest as defined in WAC 308-93-460 is not available?~~ When an applicant is unable to provide an acceptable release of interest for a vessel, the applicant may:

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

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

(i) Provide evidence of ownership of the vessel including, but not limited to, a bill of sale;

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

(A) If a record is found, the applicant must send a certified or registered letter, return receipt requested, to each owner and secured party of record at the address shown on

the last record. The letter must contain information regarding the sender's claim to ownership and a request for the released certificate of ownership or a notarized or certified release of interest.

(B) If the previous owner does not respond within fifteen days after acknowledged receipt or the letter was returned unclaimed, the applicant must provide a completed affidavit of request for bonded title or registration, explaining how the vessel was acquired;

If no record is found, the applicant must provide the completed form titled, Affidavit of Request for Bonded Title or Registration Without Title.

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

(A) Information provided by a value guide book or other publication of recognized standing in the vessel industry; or

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

(2) If I have a bonded certificate of ownership for my vessel, how can I get a certificate of ownership without the bonded notation? In order to get a certificate of ownership without the bonded notation, you may:

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

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

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

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

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

(4)) What is ownership in doubt? Ownership in doubt is when a vessel owner(s) is unable to obtain satisfactory evidence of ownership or release of interest described in WAC 308-93-460.

(2) What options are available in an ownership in doubt situation? When in an ownership in doubt situation, the owner may:

(a) Apply for three-year registration without title; or

(b) Apply for a bonded title as described in vehicle law RCW 46.12.151; or

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

(3) What documents are required when applying for a bonded title or three-year registration without title?

Required documents when applying for a bonded title or three-year registration include:

(a) The originals or copies of letters sent by registered or certified mail to the registered and legal owners of record, including the return receipt. The letters must include information regarding the applicant's claim to the ownership and request for the released certificate of ownership (title) or a notarized or certified release of interest.

(i) Registered and legal owner information will be released under WAC 308-93-087 for applicants needing that information.

(ii) If there is no Washington record, (a) of this subsection does not apply.

(iii) If the owners of record do not respond before submitting the application, the applicant must wait fifteen days from acknowledged receipt of the letter.

(iv) If the letter is returned unclaimed, the applicant must submit the letter, unopened, with the application.

(b) A bonded title or three-year registration without title affidavit completed by the applicant and signed by all persons to be shown as registered owner(s).

(c) Application for certificate of ownership (title).

(d) A bond as described in vehicle law RCW 46.12.151, if the applicant is applying for a bonded title.

(e) Other documents that may be required by law or rule.

(4) How is a vessel value determined for filing a bond? Vessel value may be determined from one of the following sources:

(a) The department's automated valuing system; or

(b) A published appraisal guide; or

(c) Appraisal from a licensed vessel dealer or appraisal company. The appraisal must be on company letterhead and have the business card attached; or

(d) An appraisal from the department of revenue; or

(e) Insured amount; or

(f) Consideration or payment plus estimated repairs by a bona fide repair facility; or

(g) Other valuing sources approved by the department.

(5) May I sell or release my interest in the vessel during the three-year ownership ((in doubt)) without title period? Yes. A bonded certificate of ownership may be released and provided to the buyer in the same way as any other certificate of ownership. The Washington bonded ((certificate of ownership)) title may not be accepted by another state. If the other state has a similar program, they may issue their own type of bonded certificate of ownership. For three-year registration ((only)) without title, provide the buyer with a notarized or certified release of interest. The new owner may either provide a judgment ((as described in subsection (1)(a) of this section)) from a district or superior court of Washington or wait until the expiration of the time remaining on the previous ownership in doubt period and then make application for the certificate of ownership. If a notarized((/)) or certified release of interest cannot be obtained from the current registered owner, the new owner must start over with a new three-year bonded or three-year registration ((only)) without title process.

WSR 07-09-069
PROPOSED RULES
GAMBLING COMMISSION

[Filed April 17, 2007, 9:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-05-074.

Title of Rule and Other Identifying Information: WAC 230-40-800 Operating rules for house-banked card games.

Hearing Location(s): La Quinta Inn and Suites, 1425 East 27th Street, Tacoma, WA 98421, (253) 383-0146, on July 13, 2007, at 9:30 a.m.

Date of Intended Adoption: July 13, 2007.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail Susan2@wsgc.wa.gov, fax (360) 486-3625, by July 1, 2007.

Assistance for Persons with Disabilities: Contact Shirley Corbett, Executive Assistant, by July 1, 2007, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: All house-banked card games must be dealt using a shuffler or dealing shoe. The petitioner is requesting that house-banked card room licensees be able to deal single deck card games by hand. This would allow dealers to hold the deck of cards in their hand while distributing/dealing cards to the players.

The petitioner would like to add wording to the current rule that states "If the game is dealt using a single deck of cards the game may be hand dealt provided a protective cover is used to conceal the bottom card." The petitioner is specifically interested in the ability to hand deal Pai Gow type games, however, his revised rule would allow dealers to hand deal any game that is played using a single deck of cards.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

Name of Proponent: Robert Otto, licensed card room employee, private.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule change clarifies language of rules without changing the effect.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

April 17, 2007
 Susan Arland
 Rules Coordinator

AMENDATORY SECTION (Amending Order 413, filed 5/16/02, effective 7/1/02)

WAC 230-40-800 Operating rules for house-banked card games. Licensees that operate house-banked card

games shall establish rules and procedures governing each specific house-banked card game played at their premises. The following restrictions and procedures apply:

(1) House-banked card games shall not be operated prior to approval as set forth in WAC 230-40-010;

(2) All house-banked card games shall be dealt from a dealing shoe or an approved shuffling device. If the game is dealt using a single deck of cards the game may be hand dealt provided a protective cover is used to conceal the bottom card;

(3) The licensee shall submit all rules governing the game to commission staff for approval. All requests shall be in writing and include at least the following:

(a) Rules of play, including those specified by the manufacturer or supplier;

(b) Any administrative or accounting controls applicable to specific games;

(c) All specifications provided by the equipment manufacturer or supplier applicable to gaming equipment utilized in the game;

(d) Physical characteristics of the following:

(i) Cards (including procedures for receipt and storage);

(ii) Gaming chips used to play the game;

(iii) All gaming tables and layouts;

(iv) Dealing shoes;

(v) Card shuffling devices;

(vi) Card peeking devices;

(vii) Bill changer devices; and

(viii) Such other equipment as may be required for use in otherwise authorized games;

(4) Rules for each authorized game, shall include at least the following:

(a) Procedures of play;

(b) Minimum and maximum permissible wagers;

(c) Shuffling, cutting, and dealing techniques, as applicable;

(d) Dealer take and pay procedures;

(e) Payout odds on each form of wager, including any factors affecting payments to the player, such as maximum player or aggregate prize restrictions; and

(f) Procedures to be followed on occurrence of irregularities, including examples of irregularities applicable to each game;

(5) A summary of playing procedures and rules of play for each game shall be visibly displayed in the gaming area. If the procedures or restrictions are game specific, they shall be displayed at each gaming table at which the game is played.

WSR 07-09-070
WITHDRAWAL OF PROPOSED RULES
EXECUTIVE ETHICS BOARD

(By the Code Reviser's Office)

[Filed April 17, 2007, 9:21 a.m.]

WAC 292-100-007, proposed by the executive ethics board in WSR 06-20-039 appearing in issue 06-20 of the State Register, which was distributed on October 18, 2006, is with-

drawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

A cost-benefit analysis is not required under RCW 34.05.328. Chapter 478-165 WAC is not considered a significant legislative rule by the University of Washington.

April 17, 2007
Rebecca Goodwin Dearnorff
UW Director of Rules Coordination

WSR 07-09-072
PROPOSED RULES
UNIVERSITY OF WASHINGTON

[Filed April 17, 2007, 10:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-24-021.

Title of Rule and Other Identifying Information: New chapter 478-165 WAC, Cost savings for course materials.

Hearing Location(s): Room 309, Husky Union Building (HUB), University of Washington, Seattle, WA 98195, on May 24, 2007, at 12:00 noon.

Date of Intended Adoption: July 19, 2007.

Submit Written Comments to: Rebecca Goodwin Dearnorff, Director of Rules Coordination, UW Rules Coordination Office, Box 355509, Seattle, WA 98195-5509, e-mail rules@u.washington.edu, fax (206) 221-6917, by May 24, 2007.

Assistance for Persons with Disabilities: Contact disability services office by May 14, 2007, TTY (206) 543-6452 or (206) 543-6450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: As required by RCW 28B.10.590, the University of Washington proposes these new rules to give students more choices for purchasing educational materials and to encourage faculty and staff to work closely with bookstores and publishers to implement the least costly option without sacrificing educational content and to provide maximum cost savings to students.

Statutory Authority for Adoption: RCW 28B.10.590 and 28B.20.130.

Statute Being Implemented: RCW 28B.10.590.

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

Name of Proponent: University of Washington, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Gus Kravas, Special Assistant to the Provost, Room 227, Gerberding Hall, University of Washington, Seattle, (206) 543-5708; and Enforcement: Phyllis Wise, Provost and Vice-President for Academic Affairs, Room 301, Gerberding Hall, University of Washington, Seattle, (206) 543-7632.

No small business economic impact statement has been prepared under chapter 19.85 RCW. New chapter 478-165 WAC does not impose a disproportionate impact on small businesses.

Chapter 478-165 WAC

COST SAVINGS IN COURSE MATERIALS

NEW SECTION

WAC 478-165-010 Authority. Pursuant to the requirements of RCW 28B.10.590, the board of regents of the University of Washington has established these rules regarding promoting cost savings in course materials for students at the University of Washington.

NEW SECTION

WAC 478-165-020 Policy. It is declared the policy of the University of Washington that students should have increased choices for purchasing lower cost educational materials. Faculty and staff are encouraged to work closely with book stores and publishers to implement these rules and to find the least costly options for course materials without sacrificing educational content, and to provide maximum cost savings to students.

NEW SECTION

WAC 478-165-030 Definitions. (1) "Materials" means any supplies or texts required or recommended by faculty or staff of the University of Washington for a given course.

(2) "Bundled" means a group of objects joined together by packaging or required to be purchased as an indivisible unit.

NEW SECTION

WAC 478-165-040 Affiliated book store responsibilities. In making course materials available for purchase, any University of Washington affiliated book store should:

(1) Provide students the option of purchasing materials that are unbundled when possible;

(2) Disclose to faculty and staff the costs to students of purchasing materials, and work with faculty and staff to encourage publishers to provide information showing how new editions vary from previous editions and to make this information available publicly;

(3) Actively promote and publicize book buy-back programs; and

(4) Disclose retail costs for course materials on a per course basis to faculty and staff and make this information publicly available.

NEW SECTION

WAC 478-165-050 Faculty and staff obligations. In assigning course materials, faculty and staff members shall

consider the least costly practices, which may include but are not limited to:

(1) Adopting the least expensive edition of materials available, consistent with copyright restrictions, when educational content is comparable as determined by the faculty; and

(2) Working closely with publishers and local book stores to create bundles and packages of course materials only if they deliver additional value or cost savings to students.

WSR 07-09-074

PROPOSED RULES

ATTORNEY GENERAL'S OFFICE

[Filed April 17, 2007, 11:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-13-025.

Title of Rule and Other Identifying Information: Model rules for providing electronic records under the Public Records Act, and housecleaning of WAC 44-14-04004 (4)(b)(i) and (ii).

Hearing Location(s): General Administration Building, 1st Floor Auditorium, 210 11th Avenue S.W., Olympia, WA, on May 30, 2007, at 6:00 p.m. - 8:00 p.m.

Date of Intended Adoption: June 15, 2007.

Submit Written Comments to: Greg Overstreet, P.O. Box 40100, Olympia, WA 98504-0100, e-mail grego@atg.wa.gov, fax (360) 664-0228, by June 5, 2007.

Assistance for Persons with Disabilities: Contact Danielle French by May 30, 2007, fax (360) 664-0228 or e-mail daniellef@atg.gov [daniellef@atg.gov].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **BACKGROUND:** RCW 42.56.570(2), amended in 2005, requires the office of the attorney general to adopt by rule an advisory model rule for state and local agencies, as defined in RCW 42.17.020, addressing the following subjects:

- (a) Providing fullest assistance to requestors;
- (b) Fulfilling large requests in the most efficient manner;
- (c) Fulfilling requests for electronic records; and
- (d) Any other issues pertaining to public disclosure as determined by the attorney general.

On January 31, 2006, the attorney general adopted such an advisory model rule, chapter 44-14 WAC, WSR 06-04-079. However, as we explained, because the controversy over the proposed rules relating to electronic rules, those provisions were not included in the final rule. Instead, we commenced a new rule-making proceeding seeking further comments on a rule relating to electronic records, WSR 06-04-078 (January 31, 2006). The attorney general's office noticed this preproposal statement of inquiry, WSR 06-13-025 (June 13, 2006).

In response to these notices, the attorney general received over two hundred pages of written comments and held several meetings with interested parties. We now publish this notice of proposed rule making pursuant to RCW 34.05.320 (CR-102) and propose this draft for comment.

SCOPE AND INTENT OF PROPOSED RULE: As stated in the preproposal statement of inquiry filed to commence the proceeding that led to the adoption of the initial set of model rules in January 2006, these rules "will collect and describe best practices on public records processing to aid requestors and agencies." WSR 05-16-120.

The application of the 1972 Public Records Act to 2007 technology is difficult. Though the act recognizes that electronically stored records fall within the scope of the act (*see* RCW 42.17.020(41)), the technological advances since 1972 certainly have surpassed anything envisioned by the drafters. Except for some modest recognition of the need for agencies to provide records online (*see* RCW 43.105.250), the legislature has not provided much clarification on how to apply the act to some electronic records issues.

Nevertheless, the legislature has tasked the attorney general with providing guidance on the topic of requests for electronic records to the state and local agencies. Because some of the statutory ambiguities have not been resolved, locating and describing a precise legal line between what the act requires state and local agencies to provide and what the act does not require is difficult. This proposed model rule relating to electronic records need not, and does not, attempt to define that line with precision. Rather, this proposed model rule is intended to provide state and local agencies with a standard of practice that would fulfill the agencies' obligations to adopt "reasonable rules and regulations" that would both implement the policies of the Public Records Act and "provide for the fullest assistance to inquirers and the most timely possible action on requests for information." RCW 42.56.100. In our view, agencies that provide such "fullest assistance" in conformance with this model rule will comply with both the letter and the spirit of the Public Records Act.

This model rule also does not purport to provide detailed guidance to state or local agencies on the possible interplay between access to electronic records under the Public Records Act and access to such records under the Civil Rules for Superior Court. The Federal Rules of Civil Procedure were recently amended to provide guidance to parties in litigation on their respective obligations to provide access to, or produce, "electronically stored information." The obligations under those federal rules (and under any state-imposed rules or procedures that adopt the federal rules) may be different than those required under the Public Records Act. It may be desirable, in the future, to revisit some aspects of this model rule to accommodate lessons learned from implementation of the federal rules. Though this model rule does not address all litigation-related issues, it does provide, in a comment section, caution to agencies to take care that, if they anticipate that records are being requested in anticipation of litigation, accurate copies are made so there can be no question later of what was and what was not produced in response to the request in the event that electronic records, or records derived from them, become issues in court.

ANTICIPATED EFFECT: The anticipated effect of the model rules for electronic records is to streamline compliance, standardize best practices throughout the state, and reduce litigation.

Reasons Supporting Proposal: The legislature directed the attorney general to adopt the Public Records Act model

rules on a number of topics, including special issues involving requests for and disclosure of electronic records.

Statutory Authority for Adoption: Section 4, chapter 483, Laws of 2005, amending RCW 42.56.570.

Statute Being Implemented: Chapter 42.56 RCW.

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

Name of Proponent: Washington state attorney general's office, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Greg Overstreet, 1125 Washington Street S.E., Olympia, WA, (360) 586-4802.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The electronic model rules apply only to governmental agencies and not to businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Cost-benefit analysis is not required for the attorney general's office, RCW 34.05.328 (5)(a)(i).

April 17, 2007

Rob McKenna

Attorney General

AMENDATORY SECTION (Amending WSR 06-04-079, filed 1/31/06, effective 3/3/06)

WAC 44-14-04003 Responsibilities of agencies in processing requests. (1) **Similar treatment and purpose of the request.** The act provides: "Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request" (except to determine if the request is for a commercial use or would violate another statute prohibiting disclosure). RCW 42.17.270/42.56.080.¹ The act also requires an agency to take the "most timely possible action on requests" and make records "promptly available." RCW 42.17.290/42.56.100 and 42.17.270/42.56.080. However, treating requestors similarly does not mean that agencies must process requests strictly in the order received because this might not be providing the "most timely possible action" for all requests. A relatively simple request need not wait for a long period of time while a much larger request is being fulfilled. Agencies are encouraged to be flexible and process as many requests as possible even if they are out of order.³

An agency cannot require a requestor to state the purpose of the request (with limited exceptions). RCW 42.17.270/42.56.080. However, in an effort to better understand the request and provide all responsive records, the agency can inquire about the purpose of the request. The requestor is not required to answer the agency's inquiry (with limited exceptions as previously noted).

(2) **Provide "fullest assistance" and "most timely possible action."** The act requires agencies to adopt and enforce reasonable rules to provide for the "fullest assistance" to a requestor. RCW 42.17.290/42.56.100. The "fullest assistance" principle should guide agencies when processing requests. In general, an agency should devote sufficient staff time to processing records requests, consistent with the act's requirement that fulfilling requests should not be an "excessive interference" with the agency's "other essential func-

tions." RCW 42.17.290/42.56.100. The agency should recognize that fulfilling public records requests is one of the agency's duties, along with its others.

The act also requires agencies to adopt and enforce rules to provide for the "most timely possible action on requests." RCW 42.17.290/42.56.100. This principle should guide agencies when processing requests. It should be noted that this provision requires the most timely "possible" action on requests. This recognizes that an agency is not always capable of fulfilling a request as quickly as the requestor would like.

(3) **Communicate with requestor.** Communication is usually the key to a smooth public records process for both requestors and agencies. Clear requests for a small number of records usually do not require predelivery communication with the requestor. However, when an agency receives a large or unclear request, the agency should communicate with the requestor to clarify the request. If the request is modified orally, the public records officer or designee should memorialize the communication in writing.

For large requests, the agency may ask the requestor to prioritize the request so that he or she receives the most important records first. If feasible, the agency should provide periodic updates to the requestor of the progress of the request. Similarly, the requestor should periodically communicate with the agency and promptly answer any clarification questions. Sometimes a requestor finds the records he or she is seeking at the beginning of a request. If so, the requestor should communicate with the agency that the requested records have been provided and that he or she is canceling the remainder of the request. If the requestor's cancellation communication is not in writing, the agency should confirm it in writing.

(4) **Failure to provide initial response within five business days.** Within five business days of receiving a request, an agency must provide an initial response to requestor. The initial response must do one of four things:

(a) Provide the record;

(b) Acknowledge that the agency has received the request and provide a reasonable estimate of the time it will require to fully respond;

(c) Seek a clarification of the request; or

(d) Deny the request. RCW 42.17.320/42.56.520. An agency's failure to provide an initial response is arguably a violation of the act.²

(5) **No duty to create records.** An agency is not obligated to create a new record to satisfy a records request.⁴ However, sometimes it is easier for an agency to create a record responsive to the request rather than collecting and making available voluminous records that contain small pieces of the information sought by the requestor or find itself in a controversy about whether the request requires the creation of a new record. The decision to create a new record is left to the discretion of the agency. If the agency is considering creating a new record instead of disclosing the underlying records, it should obtain the consent of the requestor to ensure that the requestor is not actually seeking the underlying records. Making an electronic copy of an electronic record is not "creating" a new record; instead, it is similar to copying a paper copy. Similarly, eliminating a field of an

electronic record can be a method of redaction; it is similar to redacting portions of a paper record using a black pen or white-out tape to make it available for inspection or copying.

(6) **Provide a reasonable estimate of the time to fully respond.** Unless it is providing the records or claiming an exemption from disclosure within the five-business day period, an agency must provide a reasonable estimate of the time it will take to fully respond to the request. RCW 42.17.320/42.56.520. Fully responding can mean processing the request (assembling records, redacting, preparing a withholding index, or notifying third parties named in the records who might seek an injunction against disclosure) or determining if the records are exempt from disclosure.

An estimate must be "reasonable." The act provides a requestor a quick and simple method of challenging the reasonableness of an agency's estimate. RCW 42.17.340(2)/42.56.550(2). See WAC 44-14-08004 (5)(b). The burden of proof is on the agency to prove its estimate is "reasonable." RCW 42.17.340(2)/42.56.550(2).

To provide a "reasonable" estimate, an agency should not use the same estimate for every request. An agency should roughly calculate the time it will take to respond to the request and send estimates of varying lengths, as appropriate. Some very large requests can legitimately take months or longer to fully provide. There is no standard amount of time for fulfilling a request so reasonable estimates should vary.

Some agencies send form letters with thirty-day estimates to all requestors, no matter the size or complexity of the request. Form letter thirty-day estimates are rarely "reasonable" because an agency, which has the burden of proof, could find it difficult to prove that every single request it receives would take the same thirty-day period.

In order to avoid unnecessary litigation over the reasonableness of an estimate, an agency should briefly explain to the requestor the basis for the estimate in the initial response. The explanation need not be elaborate but should allow the requestor to make a threshold determination of whether he or she should question that estimate further or has a basis to seek judicial review of the reasonableness of the estimate.

An agency should either fulfill the request within the estimated time or, if warranted, communicate with the requestor about clarifications or the need for a revised estimate. An agency should not ignore a request and then continuously send extended estimates. Routine extensions with little or no action to fulfill the request would show that the previous estimates probably were not "reasonable." Extended estimates are appropriate when the circumstances have changed (such as an increase in other requests or discovering that the request will require extensive redaction). An estimate can be revised when appropriate, but unwarranted serial extensions have the effect of denying a requestor access to public records.

(7) **Seek clarification of a request or additional time.** An agency may seek a clarification of an "unclear" request. RCW 42.17.320/42.56.520. An agency can only seek a clarification when the request is objectively "unclear." Seeking a "clarification" of an objectively clear request delays access to public records.

If the requestor fails to clarify an unclear request, the agency need not respond to it further. RCW 42.17.320/

42.56.520. If the requestor does not respond to the agency's request for a clarification within thirty days of the agency's request, the agency may consider the request abandoned. If the agency considers the request abandoned, it should send a closing letter to the requestor.

An agency may take additional time to provide the records or deny the request if it is awaiting a clarification. RCW 42.17.320/42.56.520. After providing the initial response and perhaps even beginning to assemble the records, an agency might discover it needs to clarify a request and is allowed to do so. A clarification could also affect a reasonable estimate.

(8) **Preserving requested records.** If a requested record is scheduled shortly for destruction, and the agency receives a public records request for it, the record cannot be destroyed until the request is resolved. RCW 42.17.290/42.56.100.⁵ Once a request has been closed, the agency can destroy the requested records in accordance with its retention schedule.

(9) **Searching for records.** An agency must conduct an objectively reasonable search for responsive records. A requestor is not required to "ferret out" records on his or her own.⁶ A reasonable agency search usually begins with the public records officer for the agency or a records coordinator for a department of the agency deciding where the records are likely to be and who is likely to know where they are. One of the most important parts of an adequate search is to decide how wide the search will be. If the agency is small, it might be appropriate to initially ask all agency employees if they have responsive records. If the agency is larger, the agency may choose to initially ask only the staff of the department or departments of an agency most likely to have the records. For example, a request for records showing or discussing payments on a public works project might initially be directed to all staff in the finance and public works departments if those departments are deemed most likely to have the responsive documents, even though other departments may have copies or alternative versions of the same documents. Meanwhile, other departments that may have documents should be instructed to preserve their records in case they are later deemed to be necessary to respond to the request. The agency could notify the requestor which departments are being surveyed for the documents so the requestor may suggest other departments. It is better to be over inclusive rather than under inclusive when deciding which staff should be contacted, but not everyone in an agency needs to be asked if there is no reason to believe he or she has responsive records. An e-mail to staff selected as most likely to have responsive records is usually sufficient. Such an e-mail also allows an agency to document whom it asked for records.

Agency policies should require staff to promptly respond to inquiries about responsive records from the public records officer.

After records which are deemed responsive are located, an agency should take reasonable steps to narrow down the number of records to those which are responsive. In some cases, an agency might find it helpful to consult with the requestor on the scope of the documents to be assembled. An agency cannot "bury" a requestor with nonresponsive documents. However, an agency is allowed to provide arguably, but not clearly, responsive records to allow the requestor to

select the ones he or she wants, particularly if the requestor is unable or unwilling to help narrow the scope of the documents.

(10) **Expiration of reasonable estimate.** An agency should provide a record within the time provided in its reasonable estimate or communicate with the requestor that additional time is required to fulfill the request based on specified criteria. Unjustified failure to provide the record by the expiration of the estimate is a denial of access to the record.

(11) **Notice to affected third parties.** Sometimes an agency decides it must release all or a part of a public record affecting a third party. The third party can file an action to obtain an injunction to prevent an agency from disclosing it, but the third party must prove the record or portion of it is exempt from disclosure.⁷ RCW 42.17.330/42.56.540. Before sending a notice, an agency should have a reasonable belief that the record is arguably exempt. Notices to affected third parties when the records could not reasonably be considered exempt might have the effect of unreasonably delaying the requestor's access to a disclosable record.

The act provides that before releasing a record an agency may, at its "option," provide notice to a person named in a public record or to whom the record specifically pertains (unless notice is required by law). RCW 42.17.330/42.56.-540. This would include all of those whose identity could reasonably be ascertained in the record and who might have a reason to seek to prevent the release of the record. An agency has wide discretion to decide whom to notify or not notify. First, an agency has the "option" to notify or not (unless notice is required by law). RCW 42.17.330/42.56.-540. Second, if it acted in good faith, an agency cannot be held liable for its failure to notify enough people under the act. RCW 42.17.258/42.56.060. However, if an agency had a contractual obligation to provide notice of a request but failed to do so, the agency might lose the immunity provided by RCW 42.17.258/42.56.060 because breaching the agreement probably is not a "good faith" attempt to comply with the act.

The practice of many agencies is to give ten days' notice. Many agencies expressly indicate the deadline date to avoid any confusion. More notice might be appropriate in some cases, such as when numerous notices are required, but every additional day of notice is another day the potentially disclosable record is being withheld. When it provides a notice, the agency should include the notice period in the "reasonable estimate" it provides to a requestor.

The notice informs the third party that release will occur on the stated date unless he or she obtains an order from a court enjoining release. The requestor has an interest in any legal action to prevent the disclosure of the records he or she requested. Therefore, the agency's notice should inform the third party that he or she should name the requestor as a party to any action to enjoin disclosure. If an injunctive action is filed, the third party or agency should name the requestor as a party or, at a minimum, must inform the requestor of the action to allow the requestor to intervene.

(12) **Later discovered records.** If the agency becomes aware of the existence of records responsive to a request which were not provided, the agency should notify the requestor in writing and provide a brief explanation of the circumstances.

Notes: ¹See also Op. Att'y Gen. 2 (1998).

²See *Smith v. Okanogan County*, 100 Wn. App. 7, 13, 994 P.2d 857 (2000) ("When an agency fails to respond as provided in RCW 42.17.320 (42.56.520), it violates the act and the individual requesting the public record is entitled to a statutory penalty.").

³While an agency can fulfill requests out of order, an agency is not allowed to ignore a large request while it is exclusively fulfilling smaller requests. The agency should strike a balance between fulfilling small and large requests.

⁴*Smith*, 100 Wn. App. at 14.

⁵An exception is some state-agency employee personnel records. RCW 42.17.295/42.56.110.

⁶*Daines v. Spokane County*, 111 Wn. App. 342, 349, 44 P.3d 909 (2002) ("an applicant need not exhaust his or her own ingenuity to 'ferret out' records through some combination of 'intuition and diligent research'").

⁷The agency holding the record can also file a RCW 42.17.330/42.56.540 injunctive action to establish that it is not required to release the record or portion of it.

AMENDATORY SECTION (Amending WSR 06-04-079, filed 1/31/06, effective 3/3/06)

WAC 44-14-04004 Responsibilities of agency in providing records. (1) **General.** An agency may simply provide the records or make them available within the five-business day period of the initial response. When it does so, an agency should also provide the requestor a written cover letter or e-mail briefly describing the records provided and informing the requestor that the request has been closed. This assists the agency in later proving that it provided the specified records on a certain date and told the requestor that the request had been closed. However, a cover letter or e-mail might not be practical in some circumstances, such as when the agency provides a small number of records or fulfills routine requests.

An agency can, of course, provide the records sooner than five business days. Providing the "fullest assistance" to a requestor would mean providing a readily available record as soon as possible. For example, an agency might routinely prepare a premeeting packet of documents three days in advance of a city council meeting. The packet is readily available so the agency should provide it to a requestor on the same day of the request so he or she can have it for the council meeting.

(2) **Means of providing access.** An agency must make nonexempt public records "available" for inspection or provide a copy. RCW 42.17.270/42.56.080. An agency is only required to make records "available" and has no duty to explain the meaning of public records.¹ Making records available is often called "access."

Access to a public record can be provided by allowing inspection of the record, providing a copy, or posting the record on the agency's web site and assisting the requestor in finding it (if necessary). An agency must mail a copy of records if requested and if the requestor pays the actual cost of postage and the mailing container.² The requestor can specify which method of access (or combination, such as inspection and then copying) he or she prefers. Different processes apply to requests for inspection versus copying (such as copy charges) so an agency should clarify with a requestor whether he or she seeks to inspect or copy a public record.

An agency can provide access to a public record by posting it on its web site. If requested, an agency should provide reasonable assistance to a requestor in finding a public record posted on its web site. If the requestor does not have internet access, the agency may provide access to the record by allowing the requestor to view the record on a specific computer terminal at the agency open to the public. An agency is not required to do so. Despite the availability of the record on the agency's web site, a requestor can still make a public records request and inspect the record or obtain a copy of it by paying the appropriate per-page copying charge.

(3) **Providing records in installments.** The act now provides that an agency must provide records "if applicable, on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure." RCW 42.17.270/42.56.080. The purpose of this provision is to allow requestors to obtain records in installments as they are assembled and to allow agencies to provide records in logical batches. The provision is also designed to allow an agency to only assemble the first installment and then see if the requestor claims or reviews it before assembling the next installments.

Not all requests should be provided in installments. For example, a request for a small number of documents which are located at nearly the same time should be provided all at once. Installments are useful for large requests when, for example, an agency can provide the first box of records as an installment. An agency has wide discretion to determine when providing records in installments is "applicable." However, an agency cannot use installments to delay access by, for example, calling a small number of documents an "installment" and sending out separate notifications for each one. The agency must provide the "fullest assistance" and the "most timely possible action on requests" when processing requests. RCW 42.17.290/42.56.100.

(4) **Failure to provide records.** A "denial" of a request can occur when an agency:

Does not have the record;

Fails to respond to a request;

Claims an exemption of the entire record or a portion of it; or

Without justification, fails to provide the record after the reasonable estimate expires.

(a) **When the agency does not have the record.** An agency is only required to provide access to public records it has or has used.³ An agency is not required to create a public record in response to a request.

An agency must only provide access to public records in existence at the time of the request. An agency is not obligated to supplement responses. Therefore, if a public record is created or comes into the possession of the agency after the request is received by the agency, it is not responsive to the request and need not be provided. A requestor must make a new request to obtain subsequently created public records.

Sometimes more than one agency holds the same record. When more than one agency holds a record, and a requestor makes a request to the first agency, the first agency cannot respond to the request by telling the requestor to obtain the record from the second agency. Instead, an agency must pro-

vide access to a record it holds regardless of its availability from another agency.⁴

An agency is not required to provide access to records that were not requested. An agency does not "deny" a request when it does not provide records that are outside the scope of the request because they were never asked for.

(b) **Claiming exemptions.**

(i) **Redactions.** If a portion of a record is exempt from disclosure, but the remainder is not, an agency generally is required to redact (black out) the exempt portion and then provide the remainder. RCW 42.17.310(2)/42.56.210(~~(2)~~) (1). There are a few exceptions.⁵ Withholding an entire record where only a portion of it is exempt violates the act.⁶ Some records are almost entirely exempt but small portions remain nonexempt. For example, information revealing the identity of a crime victim is exempt from disclosure. RCW 42.17.310 (1)(e)/(~~42.56.210 (1)(e)~~) 42.56.240(2). If a requestor requested a police report in a case in which charges have been filed, the agency must redact the victim's identifying information but provide the rest of the report.

Statistical information "not descriptive of any readily identifiable person or persons" is generally not subject to redaction or withholding. RCW 42.17.310(2)/42.56.210 (~~(2)~~) (1). For example, if a statute exempted the identity of a person who had been assessed a particular kind of penalty, and an agency record showed the amount of penalties assessed against various persons, the agency must provide the record with the names of the persons redacted but with the penalty amounts remaining.

Originals should not be redacted. For paper records, an agency should redact materials by first copying the record and then either using a black marker on the copy or covering the exempt portions with copying tape, and then making a copy. It is often a good practice to keep the initial copies which were redacted in case there is a need to make additional copies for disclosure or to show what was redacted. For electronic records such as data bases, an agency can sometimes redact a field of exempt information by excluding it from the set of fields to be copied. However, in some instances electronic redaction might not be feasible and a paper copy of the record with traditional redaction might be the only way to provide the redacted record. If a record is redacted electronically, by deleting a field of data or in any other way, the agency must identify the redaction and state the basis for the claimed exemption as required by RCW 42.56.210(3). See (b)(ii) of this subsection.

(ii) **Brief explanation of withholding.** When an agency claims an exemption for an entire record or portion of one, it must inform the requestor of the statutory exemption and provide a brief explanation of how the exemption applies to the record or portion withheld. RCW 42.17.310(4)/42.56.210 (~~(4)~~) (3). The brief explanation should cite the statute the agency claims grants an exemption from disclosure. The brief explanation should provide enough information for a requestor to make a threshold determination of whether the claimed exemption is proper. Nonspecific claims of exemption such as "proprietary" or "privacy" are insufficient.

One way to properly provide a brief explanation of the withheld record or redaction is for the agency to provide a withholding index. It identifies the type of record, its date and

number of pages, and the author or recipient of the record (unless their identity is exempt).⁷ The withholding index need not be elaborate but should allow a requestor to make a threshold determination of whether the agency has properly invoked the exemption.

(5) **Notifying requestor that records are available.** If the requestor sought to inspect the records, the agency should notify him or her that the entire request or an installment is available for inspection and ask the requestor to contact the agency to arrange for a mutually agreeable time for inspection.⁸ The notification should recite that if the requestor fails to inspect or copy the records or make other arrangements within thirty days of the date of the notification that the agency will close the request and refile the records. An agency might consider on a case-by-case basis sending the notification by certified mail to document that the requestor received it.

If the requestor sought copies, the agency should notify him or her of the projected costs and whether a copying deposit is required before the copies will be made. The notification can be oral to provide the most timely possible response.

(6) **Documenting compliance.** An agency should have a process to identify which records were provided to a requestor and the date of production. In some cases, an agency may wish to number-stamp or number-label paper records provided to a requestor to document which records were provided. The agency could also keep a copy of the numbered records so either the agency or requestor can later determine which records were or were not provided. However, the agency should balance the benefits of stamping or labeling the documents and making extra copies against the costs and burdens of doing so.

If memorializing which specific documents were offered for inspection is impractical, an agency might consider documenting which records were provided for inspection by making an index or list of the files or records made available for inspection.

Notes: ¹*Bonamy v. City of Seattle*, 92 Wn. App. 403, 409, 960 P.2d 447 (1998), *review denied*, 137 Wn.2d 1012, 978 P.2d 1099 (1999).

²*Am. Civil Liberties Union v. Blaine Sch. Dist. No. 503*, 86 Wn. App. 688, 695, 937 P.2d 1176 (1997).

³*Sperr v. City of Spokane*, 123 Wn. App. 132, 136-37, 96 P.3d 1012 (2004).

⁴*Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 132, 580 P.2d 246 (1978).

⁵The two main exceptions to the redaction requirement are state "tax information" (RCW 82.32.330 (1)(c)) and law enforcement case files in active cases (*Newman v. King County*, 133 Wn.2d 565, 574, 947 P.2d 712 (1997)). Neither of these two kinds of records must be redacted but rather may be withheld in their entirety.

⁶*Seattle Fire Fighters Union Local No. 27 v. Hollister*, 48 Wn. App. 129, 132, 737 P.2d 1302 (1987).

⁷*Progressive Animal Welfare Soc'y. v. Univ. of Wash.*, 125 Wn.2d 243, 271, n.18, 884 P.2d 592 (1994) ("*PAWS II*").

⁸For smaller requests, the agency might simply provide them with the initial response or earlier so no notification is necessary.

PROCESSING OF PUBLIC RECORDS REQUESTS— ELECTRONIC RECORDS

AMENDATORY SECTION (Amending WSR 06-04-079, filed 1/31/06, effective 3/3/06)

WAC 44-14-050 (~~Reserved~~) Processing of public records requests—Electronic records. (1) Requesting electronic records. The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records. When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by WAC 44-14-07003.

(3) Customized access to data bases. With the consent of the requestor, the agency may provide customized access under RCW 43.105.280 if the record is not reasonably locatable or not reasonably translatable into the format requested. The (agency) may charge a fee consistent with RCW 43.105.-280 for such customized access.

Comments to WAC 44-14-050

NEW SECTION

WAC 44-14-05001 Access to electronic records. The Public Records Act does not distinguish between paper and electronic records. Instead, the act explicitly includes electronic records within its coverage. The definition of "public record" includes a "writing," which in turn includes "existing data compilations from which information may be obtained or translated." RCW 42.17.020(48) (incorporated by reference into the act by RCW 42.56.010). Many agency records are now in an electronic format. Many of these electronic formats such as Windows® products are generally available and are designed to operate with other computers to quickly and efficiently locate and transfer information. Providing electronic records can be cheaper and easier for an agency than paper records. Furthermore, RCW 43.105.250 provides: "It is the intent of the legislature to encourage state and local governments to develop, store, and manage their public records and information in electronic formats to meet their missions and objectives. Further, it is the intent of the legislature for state and local governments to set priorities for making public records widely available electronically to the public." In general, an agency should provide electronic records in an electronic format if requested in that format. Technical feasibility is the touchstone for providing electronic records. An agency should provide reasonably locatable electronic public records in either their original generally commercially available format (such as an Acrobat PDF® file) or, if the records are not in a generally commercially available format, the agency should provide them in a reasonably translatable electronic format if possible. In the

rare cases when the requested electronic records are not reasonably locatable, or are not in a generally commercially available format or are not reasonably translatable into one, the agency might consider customized access. See WAC 44-14-05004. An agency may recover its actual costs for providing electronic records, which in many cases is de minimis. See WAC 44-14-050(3). What is technically feasible in one situation may not be in another. Not all agencies, especially smaller units of local government, have the electronic resources of larger agencies and some of the generalizations in these model rules may not apply every time. If an agency initially believes it cannot provide electronic records in an electronic format, it should confer with the requestor and the two parties should attempt to cooperatively resolve any technical difficulties. See WAC 44-14-05003. It is usually a purely technical question whether an agency can provide electronic records in a particular format in a specific case.

NEW SECTION

WAC 44-14-05002 "Reasonably locatable" and "reasonably translatable" electronic records. (1) **"Reasonably locatable" electronic records.** The act obligates an agency to provide nonexempt "identifiable...records." RCW 42.56.080. An "identifiable record" is essentially one that agency staff can "reasonably locate." WAC 44-14-04002(2). Therefore, a general summary of the "identifiable record" standard as it relates to electronically locating public records is that the act requires an agency to provide a nonexempt "reasonably locatable" record. This does not mean that an agency can decide if a request is "reasonable" and only fulfill those requests. Rather, "reasonably locatable" is a concept, grounded in the act, for analyzing electronic records issues.

In general, a "reasonably locatable" electronic record is one which can be located with typical search features and organizing methods contained in the agency's current software. For example, a retained e-mail containing the term "XYZ" is usually reasonably locatable by using the e-mail program search feature. However, an e-mail search feature has limitations, such as not searching attachments, but is a good starting point for the search. Information might be "reasonably locatable" by methods other than a search feature. For example, a request for a copy of all retained e-mails sent by a specific agency employee for a particular date is "reasonably locatable" because it can be found utilizing a common organizing feature of the agency's e-mail program, a chronological "sent" folder. Another indicator of what is "reasonably locatable" is whether the agency keeps the information in a particular way for its business purposes. For example, an agency might keep a data base of permit holders including the name of the business. The agency does not separate the businesses by whether they are publicly traded corporations or not because it has no reason to do so. A request for the names of the businesses which are publicly traded is not "reasonably locatable" because the agency has no business purpose for keeping the information that way. In such a case, the agency should provide the names of the businesses (assuming they are not exempt from disclosure) and the requestor can analyze the data base to determine which businesses are publicly traded corporations.

(2) **"Reasonably translatable" electronic records.** The act requires an agency to provide a "copy" of nonexempt records (subject to certain copying charges). RCW 42.56.070 (1) and 42.56.080. To provide a photocopy of a paper record, an agency must take some reasonable steps to mechanically translate the agency's original document into a useable copy for the requestor such as copying it in a copying machine. Similarly, an agency must take some reasonable steps to prepare an electronic copy of an electronic record or a paper record. Providing an electronic copy is analogous to providing a paper record: An agency must take reasonable steps to translate the agency's original into a useable copy for the requestor.

The "reasonably translatable" concept typically operates in three kinds of situations:

- (a) An agency has only a paper record;
- (b) An agency has an electronic record in a generally commercially available format (such as a Windows® product); or
- (c) An agency has an electronic record in an electronic format but the requestor seeks a copy in a different electronic format.

The following examples assume no redactions are necessary.

(i) **Agency has paper-only records.** When an agency only has a paper copy of a record, an example of a "reasonably translatable" copy would be scanning the record into an Adobe Acrobat PDF® file and providing it to the requestor. The agency could recover its actual cost for scanning. See WAC 44-14-07003. Providing a PDF copy of the record is analogous to making a paper copy. However, if the agency lacked a scanner (such as a small unit of local government), the record would not be "reasonably translatable" with the agency's own resources. In such a case, the agency could provide a paper copy to the requestor.

(ii) **Agency has electronic records in a generally commercially available format.** When an agency has an electronic record in a generally commercially available format, such as an Excel® spreadsheet, and the requestor requests an electronic copy in that format, no translation into another format is necessary; the agency should provide the spreadsheet electronically. Another example is where an agency has an electronic record in a generally commercially available format (such as Word®) and the requestor requests an electronic copy in Word®. An agency cannot instead provide a WordPerfect® copy because there is no need to translate the electronic record into a different format. In the paper-record context, this would be analogous to the agency intentionally making an unreadable photocopy when it could make a legible one. Similarly, the WordPerfect® "translation" by the agency is an attempt to hinder access to the record. In this example, the agency should provide the document in Word® format. Electronic records in generally commercially available formats such as Word® could be easily altered by the requestor. Requestors should note that altering public records and then intentionally passing them off as exact copies of public records might violate various criminal and civil laws.

(iii) **Agency has electronic records in an electronic format other than the format requested.** When an agency

has an electronic record in an electronic format (such as a Word® document) but the requestor seeks a copy in another format (such as WordPerfect®), the question is whether the agency's document is "reasonably translatable" into the requested format. If the format of the agency document allows it to "save as" another format without changing the substantive accuracy of the document, this would be "reasonably translatable." The agency's record might not translate perfectly, but it was the requestor who requested the record in a format other than the one used by the agency. Another example is where an agency has a data base in a unique format that is not generally commercially available. A requestor requests an electronic copy. The agency can convert the data in its unique system into a near-universal format such as a comma-delimited or tab-delimited format. The requestor can then convert the comma-delimited or tab-delimited data into a data base program (such as Access®) and use it. The data in this example is "reasonably translatable" into a comma-delimited or tab-delimited format so the agency should do so. A final example is where an agency has an electronic record in a generally commercially available format (such as Word®) but the requestor requests a copy in an obscure word processing format. The agency offers to provide the record in Word® format but the requestor refuses. The agency can easily convert the Word® document into a standard text file which, in turn, can be converted into most programs. The Word® document is "reasonably translatable" into a text file so the agency should do so. It is up to the requestor to convert the text file into his or her preferred format, but the agency has provided access to the electronic record in the most technically feasible way and not attempted to hinder the requestor's access to it.

(3) Agency should keep an electronic copy of the electronic records it provides. An electronic record is usually more susceptible to manipulation and alteration than a paper record. Therefore, an agency should keep, when feasible, an electronic copy of the electronic records it provides to a requestor to show the exact records it provided. Additionally, an electronic copy might also be helpful when responding to subsequent electronic records requests for the same records.

NEW SECTION

WAC 44-14-05003 Parties should confer on technical issues. Technical feasibility can vary from request to request. When a request for electronic records involves technical issues, the best approach is for both parties to confer and cooperatively resolve them. Often a telephone conference will be sufficient. This approach is consistent with the requirement that agencies provide the "fullest assistance" to a requestor. RCW 42.56.100 and WAC 44-14-04003(2). Furthermore, if a requestor files an enforcement action under the act to obtain the records, the burden of proof is on the agency to justify its refusal to provide the records. RCW 42.56.550 (1). If the requestor articulates a reasonable technical alternative to the agency's refusal to provide the records electronically or in the requested format, and the agency never offered to confer with the requestor, the agency will have difficulty proving that its refusal was justified.

NEW SECTION

WAC 44-14-05004 Customized access. When locating the requested records or translating them into the requested format cannot be done without specialized programming, RCW 43.105.280 allows agencies to charge some fees for "customized access." The statute provides: "Agencies should not offer customized electronic access services as the primary way of responding to requests or as a primary source of revenue." Most public records requests for electronic records can be fulfilled based on the "reasonably locatable" and "reasonably translatable" standards. Resorting to customized access should not be the norm. An example of where "customized access" would be appropriate is if a state agency's old computer system stored data in a manner in which it was impossible to extract the data into comma-delimited or tab-delimited formats, but rather required a programmer to spend more than a nominal amount of time to write computer code specifically to extract it. Before resorting to customized access, the agency should confer with the requestor to determine if a technical solution exists not requiring the specialized programming.

NEW SECTION

WAC 44-14-05005 Relationship of Public Records Act to court rules on discovery of "electronically stored information." The December 2006 amendments to the Federal Rules of Civil Procedure provide guidance to parties in litigation on their respective obligations to provide access to, or produce, "electronically stored information." See Federal Rules of Civil Procedure 26 and 34. The obligations of state and local agencies under those federal rules (and under any state-imposed rules or procedures that adopt the federal rules) to search for and provide electronic records may be different, and in some instances more demanding, than those required under the Public Records Act. The federal discovery rules and the Public Records Act are two separate laws imposing different standards. However, sometimes requestors make public records requests to obtain evidence that later may be used in non-Public Records Act litigation against the agency providing the records. Therefore, it may be prudent for agencies to consult with their attorneys regarding best practices of retaining copies of the records provided under the act so there can be no question later of what was and what was not produced in response to the request in the event that electronic records, or records derived from them, become issues in court.

AMENDATORY SECTION (Amending WSR 06-04-079, filed 1/31/06, effective 3/3/06)

WAC 44-14-070 Costs of providing copies of public records. (1) **Costs for paper copies.** There is no fee for inspecting public records. A requestor may obtain standard black and white photocopies for (amount) cents per page and color copies for (amount) cents per page.

(If agency decides to charge more than fifteen cents per page, use the following language:) The (name of agency) charges (amount) per page for a standard black and white photocopy of a record selected by a requestor. A statement of

the factors and the manner used to determine this charge is available from the public records officer.

Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The (name of agency) will not charge sales tax when it makes copies of public records.

(2) **Costs for electronic records.** The cost of electronic copies of records shall be (amount) for information on a ~~((floppy disk and (amount) for information on a))~~ CD-ROM. (If the agency has scanning equipment at its offices: The cost of scanning existing (agency) paper or other nonelectronic records is (amount) per page.) There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee.

(3) **Costs of mailing.** The (name of agency) may also charge actual costs of mailing, including the cost of the shipping container.

(4) **Payment.** Payment may be made by cash, check, or money order to the (name of agency).

AMENDATORY SECTION (Amending WSR 06-04-079, filed 1/31/06, effective 3/3/06)

WAC 44-14-07003 Charges for electronic records. ~~((Reserved-))~~ Providing copies of electronic records usually costs the agency and requestor less than making paper copies. Agencies are strongly encouraged to provide copies of electronic records in an electronic format. See RCW 43.105.250 (encouraging state and local agencies to make "public records widely available electronically to the public."). As with charges for paper copies, "actual cost" is the primary factor for charging for electronic records. In many cases, the "actual cost" of providing an existing electronic record is de minimis. For example, a requestor requests an agency to e-mail an existing Excel® spreadsheet. The agency should not charge for the de minimis cost of electronically copying and e-mailing the existing spreadsheet. The agency cannot attempt to charge a per-page amount for a paper copy when it has an electronic copy that can be easily provided at nearly no cost. However, if the agency has a paper-only copy of a record and the requestor requests an Adobe Acrobat PDF® copy, the agency incurs an actual cost in scanning the record (if the agency has a scanner at its offices). Therefore, an agency can establish a scanning fee for records it scans. Agencies are encouraged to compare their scanning and other copying charges to the rates of outside vendors. See WAC 44-14-07001.

WSR 07-09-075
PROPOSED RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY

[Filed April 17, 2007, 11:51 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: SCAPCA Regulation I, Article X, Section 10.06 - Registration and Operating Permit Fees for Air Contaminant Sources; and SCAPCA Regulation I, Article X, Section 10.09 - Asbestos Fees.

Hearing Location(s): Spokane County Public Works Building, 1206 West Broadway, Hearing Room, Lower Level, Spokane, WA 99201, on June 7, 2007, at 9:00 a.m.

Date of Intended Adoption: June 7, 2007.

Submit Written Comments to: Matt Holmquist, 1101 West College, Suite 403, Spokane, WA 99201, e-mail mgholmquist@scapca.org, fax (509) 477-6828, by 4:30 p.m. on May 22, 2007.

Assistance for Persons with Disabilities: Contact Barbara Nelson by 4:30 p.m. on May 22, 2007, (509) 477-4727.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Sections 10.06 and 10.09 - Air Operating Permit Fees and Asbestos Fees, will be moved to a fee schedule. Currently, rates for Operating Permit Fees and Asbestos Fees are set through the formal rule-making process of the Administrative Procedure Act. By statute and/or board direction, certain programs are subject to fee-based cost recovery. Fees will be based on actual and/or projected direct and indirect costs associated with the program. Fees will be established to recover total program costs. The revised regulation outlines the fee structure and requires SCAPCA's board to utilize the fee structure to set the fees and periodically review the fees to ensure that full cost recovery is being achieved. If full cost recovery is not achieved, adjustments to the fees either upward or downward may be made by the board. Adjustments to the fees would be preceded by public notice, a public comment period and a public hearing. The anticipated effect of the rule change is to maintain improved correlation between fee-based revenue and actual program costs.

Reasons Supporting Proposal: Sections 10.06 & 10.09 - Reorganizes fees into fee schedules to streamline fee amendments, if necessary. Also, refer above.

Statutory Authority for Adoption: RCW 70.94.141(1).

Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: Spokane County Air Pollution Control Authority (SCAPCA), governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Matt Holmquist, SCAPCA, 1101 West College, Suite 403, Spokane, WA 99201, (509) 477-4727.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a local air pollution control authority rule and as such, chapter 19.85 RCW does not apply.

A cost-benefit analysis is not required under RCW 34.05.328. This is a local agency rule and pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule.

April 17, 2007
 Matt Holmquist
 Compliance Administrator

AMENDATORY SECTION

SCAPCA REGULATION I, ARTICLE X, SECTION 10.06 REGISTRATION AND OPERATING PERMIT FEES FOR AIR CONTAMINANT SOURCES

A. Each source required by Article IV, Section 4.01 to be registered, each air operating permit source, and each source required by Article V, Section 5.02 to obtain an approved Notice of Construction and application for Approval is subject to an annual fee for each calendar year, or portion of each calendar year, during which it operates. The owner or operator shall pay the fee, pursuant to the requirements in Section 10.02. Fees received pursuant to the registration program or the operating permit program shall not exceed the actual costs of program administration.

B. The annual fee for each source required by Article IV, Section 4.01 to be registered and that is not subject to Section 10.06.C. of this Regulation shall be determined by adding all of the applicable fees in the current fee schedule.

1. The Board shall periodically (~~annually~~) review the fee schedule for registered sources and determine if the total projected fee revenue to be collected pursuant to this Section is sufficient to fully recover program costs. Any proposed fee revisions shall include opportunity for public review and comment. Accordingly, the Authority shall account for program costs, including employee costs and overhead. If the Board determined that the total projected fee revenue is either significantly excessive or deficient for this purpose, then the Board shall amend the fee schedule to more accurately recover program costs.

C. The annual fee for each air operating permit source shall be determined as follows:

1. The Board shall periodically review the fee schedule for air operating permit sources and determine if the total projected fee revenue to be collected pursuant to this Section is sufficient to fully recover program costs. Any proposed fee revisions shall include opportunity for public review and comment. Accordingly, the Authority shall account for program costs, including employee costs and overhead. If the Board determines that the total projected fee revenue is either significantly excessive or deficient for this purpose, the Board shall amend the fee schedule to more accurately recover program costs.

((+)) 2. For sources that are subject to the air operating permit (AOP) program during any portion of the calendar year:

a. Annual flat base fee (~~(of \$3,000)~~) according to the fee schedule;

b. Emission fee (~~(of \$31.11 per)~~) according to the fee schedule, where the fee is charged for each ton of actual emissions from the previous calendar year;

c. SCAPCA time fee, as determined by the following formula:

$$TF_I = \frac{(H_I + H_G) \times RPC}{H_T}$$

Where,
 TF_I is the SCAPCA time fee for AOP source, I;
 H_I is the total SCAPCA staff hours spent on AOP source, I;

H_G is the total general hours SCAPCA staff spent on the AOP program divided by the total number of sources subject to the AOP program during any portion of the calendar year;

RPC is the remaining SCAPCA AOP program cost, calculated by subtracting the sum of the Section 10.06.~~((B-4))~~ C.2.a and b. fees from the total SCAPCA AOP program costs; and

H_T is the total number of hours SCAPCA staff spent on the AOP program, including total time spent on the AOP sources and general hours spent on the AOP program.

Note: H_I, H_G, H_T, and RPC are for the most recent SCAPCA fiscal year.

Note: H_I, H_G, and H_T are obtained from SCAPCA time accounting records.

d. Program deficit recovery fee, as determined by the following formula:

$$PDRF_{I,y=2006 \rightarrow 2015} = \frac{\text{Remaining Program Deficit}_y}{(2016 - y)} \times \frac{E_{I(y-1)}}{E_{T(y-1)}}$$

Where,
 PDRF_I is the program deficit recovery fee assessed during year "y" (from 2006-2015) to each AOP source, I, that operated during any portion of the calendar year "y";

Remaining Program Deficit_y is the total cumulative funding deficit for SCAPCA's AOP program at the end of year "y";

"y" is the year, beginning in year 2006 and ending in year 2015;

E_I is the total (in tons) of actual emissions from AOP source, I, during the calendar year prior to year "y" (y-1); and

E_T is the sum (in tons) of the actual emissions from all AOP sources during the calendar year prior to year "y" (y-1).

Note: The program deficit recovery fee will expire in 2016 when the AOP program deficit will be zero.

e. A share of the assessment by Ecology pursuant to RCW 70.94.162(3), as determined by the following formula:

$$I = \frac{F_I \times A_E}{F_T}$$

Where,
 I is the individual share of the assessment;
 F_I is the total individual fee assessed pursuant to Section 10.06.C.~~((+))~~2.a., b., c., and d. of this Regulation;

A_E is the total Ecology assessment pursuant to RCW 70.94.162(3); and

F_T is the sum of all the individual fees assessed pursuant to Sections 10.06.C.~~((+))~~2.a., b., c., and d. of this Regulation.

~~((2))~~ 3. For affected units under Section 404 of the Federal Clean Air Act (42 USC 7401 et seq):

a. ~~An hourly fee ((of \$50 per hour of)) according to the fee schedule for time expended in carrying out the fee eligible activities specified in RCW 70.94.; and~~

b. A share of the assessment by Ecology pursuant to RCW 70.94.162(3), as determined by the following formula:

$$I = \frac{F_I \times A_E}{F_T}$$

Where,

I is the individual share of the assessment;

F_I is the total individual fee assessed pursuant to Section 10.06.C.~~((2))~~3.a. of this Regulation;

A_E is the total Ecology assessment pursuant to RCW 70.94.162(3); and

F_T is the sum of all the individual fees assessed pursuant to Sections 10.06.C.~~((2))~~3.a. of this Regulation.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SCAPCA REGULATION I, ARTICLE X, SECTION 10.09 ASBESTOS NOTIFICATION PERIOD AND FEES

A. Written notification, as required in Article IX, Section 9.04, shall be accompanied by the appropriate nonrefundable fee, as follows: ~~((according to Section 10.09.A)).~~

~~((A. Notification Period and Fees))~~

Project	Size or Type	Notification Period	Fee
Owner-Occupied, Single-Family Residence Asbestos Project (excluding demolition)	Notification Not Required	None	None
Owner-Occupied, Single-Family Residence Demolition	All	Prior Notice	((30)) Per the Fee Schedule
All Other Demolitions with no asbestos project	All	10 Days	((250)) Per the Fee Schedule
Asbestos Project includes demolition fee*	10-259 linear ft 48-159 square ft	3 Days	((250)) Per the Fee Schedule
Asbestos Project includes demolition fee	260-999 linear ft 160-4,999 square ft	10 Days	((500)) Per the Fee Schedule
Asbestos Project includes demolition fee	≥1,000 linear ft ≥ 5,000 square ft	10 Days	((1250)) Per the Fee Schedule
Emergency	9.04.C	Prior Notice**	Additional fee equal to project fee
Amendment***	9.04.B	Prior Notice	((0)) Per the Fee Schedule
Alternate Means of Compliance (demolitions or friable asbestos-containing material)	9.07.A or C	10 Days	Additional fee equal to project fee
Alternate Means of Compliance (non-friable asbestos-containing material)	9.07.B	10 Days	Additional fee equal to project fee
Exception for Hazardous Conditions	9.05.B	Concurrent with Project	Regular Project fee
((Annual	9.04.A.8	Prior Notice	\$1,000))

* Demolitions with asbestos projects involving less than 10 linear feet or less than 48 square feet may submit an asbestos project notification under this project category and will be eligible for the 3-day notification period.

** Except in the case where advance notice is not required pursuant to Section 9.04.C.2.

*** For an amendment where the project type or job size category is associated with a higher fee, a fee equal to the difference between the fee associated with the most recently submitted notification and the fee associated with the increased project type or job size category shall be submitted.

1. The Board shall periodically review the fee schedule for notifications submitted pursuant to Section 9.04 and determine if the total projected fee revenue to be collected pursuant to this Section is sufficient to fully recover program costs. Any proposed fee revisions shall include opportunity for public review and comment. Accordingly, the Authority shall account for program costs, including employee costs

and overhead. If the Board determines that the total projected fee revenue is either significantly excessive or deficient for this purpose, then the Board shall amend the fee schedule to more accurately recover program costs.

B. The Control Officer may waive the asbestos project fee and notification period, by written authorization, for disposal of unused and intact or abandoned (without the knowl-

edge or consent of the property owner) asbestos-containing materials. All other asbestos project and demolition requirements remain in effect.

C. Where a compliance investigation is conducted pursuant to Section 9.04 of this Regulation, the compliance investigation fee shall be equal to \$50 per hour of compliance investigation.

D. The asbestos project fee in Section 10.09.a is waived for any demolition performed in accordance with RCW 52.12.150(6), where the good faith inspection is an asbestos survey, as defined in Section 9.02.G, performed by an AHERA Building Inspector, as defined in Section 9.02.A.

E. Fees shall be paid without regard to whether the request(s) associated with this Section are approved or denied.

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

WSR 07-09-077
PROPOSED RULES
HORSE RACING COMMISSION

[Filed April 17, 2007, 2:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-12-065.

Title of Rule and Other Identifying Information: Chapter 260-16 WAC, (~~(Special types of races)~~) Washington-bred horses.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on June 14, 2007, at 9:30 a.m.

Date of Intended Adoption: June 14, 2007.

Submit Written Comments to: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail rlopez@whrc.state.wa.us, fax (360) 459-6461, by June 11, 2007.

Assistance for Persons with Disabilities: Contact Patty Sorby by June 11, 2007, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to make sweeping changes to chapter 260-16 WAC including (1) changing the name of the chapter, (2) amending three sections to (a) require racing associations to offer at least one Washington-bred only race per race day (to encourage the breeding of horses) WAC 260-16-040; (b) identify the requirements to be a Washington-bred horse WAC 260-16-050; and (c) identify and calculate the payment of both the Washington-bred owner's bonus and breeder's awards WAC 260-16-065, (3) adding a new section making it clear that nonprofit racing association are exempt from collecting and distributing owner's bonus and breeder's awards, and (4) repealing seven sections, including WAC 260-16-010, 260-16-020, 260-16-030, 260-16-060, 260-16-070, 260-16-080, and 260-16-090.

This proposal is intended to help encourage the horse breeding industry in the state of Washington, clearly identify

the certification process of Washington-bred horses, and ensure owners and breeders receive their rightful amount in owner's bonus and breeder's awards, and final [finally] eliminate sections that are no longer necessary. This effort is part of the agency's regulatory reform effort.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert M. Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

April 17, 2007

R. J. Lopez

Deputy Secretary

Chapter 260-16 WAC

(SPECIAL TYPES OF RACES)
WASHINGTON-BRED HORSES

AMENDATORY SECTION (Amending Resolution No. 86-04, filed 10/16/86)

WAC 260-16-040 Washington-bred horses. (~~For the purpose of encouraging the breeding within this state, of valuable thoroughbred race horses, at least one race of each day's meeting shall consist exclusively of Washington-bred horses. If sufficient competition cannot be had among such class of horses, said race may be eliminated for said day and a substitute race, also for Washington-bred horses, provided instead. (Section 8, chapter 55, Laws of 1933.)~~)

~~Proof that horses entered in such races were bred in Washington rests with the owner. Certificate of registration or the evidence of a breeder or other responsible person will be accepted. Affidavits may be demanded at the discretion of the stewards.~~

Eligibility for the owners bonus and the breeder awards under RCW 67.16.075, 67.16.102, and 67.16.175 are provided for in WAC 260-16-060.) (1) To encourage the breeding of horses in the state of Washington the association will offer at least one Washington-bred only race per race day at Class A, B, and C race meets. If insufficient horses are entered in a Washington-bred only race for a particular race day a substitute race for Washington-bred only horses may be used. If either of these races have insufficient entries, the association may use an extra Washington-bred only race. If the association is unable to obtain sufficient entries to fill the extra Washington-bred only race, the race may be canceled with permission of the stewards.

(2) Only horses certified as Washington-bred, are eligible to run in a Washington-bred only race.

(3) Within ninety days after the end of the race meet, Class A, B, and C racing associations will report to the commission on the association's efforts to offer and fill at least one Washington-bred only race per day.

AMENDATORY SECTION (Amending Resolution No. 86-04, filed 10/16/86)

WAC 260-16-050 Certification of Washington-bred horses. (1) For purposes of the distribution of the owner's bonus and breeder's awards, a Washington-bred horse is one that meets the following requirements:

(a) The horse was foaled within the boundaries of the state of Washington; and

(b) ~~((H))~~ The horse is ((officially certified by the associations designated by the racing commission)) certified as Washington-bred for its breed by the respective organization listed in subsection (2) of this section.

(2) The following associations ~~((presently comprised of a majority of owners and/or breeders of their respective breeds in the state of Washington))~~ are recognized by the ~~((racing))~~ commission for the purpose of certification of their respective breed as Washington-bred horses ((for the distribution of the owners bonus and breeder awards provided for in RCW 67.16.075 and 67.16.102)):

(a) ~~The ((Washington Thoroughbred Breeders Association,))~~ Jockey Club for thoroughbreds;

(b) ~~The ((Washington State Standardbred Association, for standardbred harness horses;~~

~~((e))~~ The ((Northern Racing)) American Quarter Horse Association, for quarter horses;

~~((d))~~ (c) The ((Washington State)) Appaloosa ((Racing Association)) Horse Club, for appaloosas;

~~((e))~~ (d) The ((Washington State)) Arabian Horse ((Racing)) Association, for Arabian horses; and

~~((f))~~ (e) The ((Washington State)) American Paint Horse Association, for paint horses.

~~((3) The racing commission may determine that other organizations should participate in the certification process if the organization is one that represents a majority of the owners and/or the breeders and, it is deemed to be in the best interests of racing. For other breeds specified in the racing act, organizations may present to the racing commission documentation that they represent a majority of the owners and/or the breeders.))~~

AMENDATORY SECTION (Amending WSR 04-05-091, filed 2/18/04, effective 3/20/04)

WAC 260-16-065 Washington-bred owner's bonus and breeder's award distribution formula. ~~((The one percent Washington bred owners bonus funds shall be collected and distributed as required in RCW 67.16.102.))~~ (1) The one percent Washington-bred owner's bonus funds collected from each ((licensee shall)) racing association must be paid in accordance with RCW 67.16.102 by the commission at the end of the race meet to the licensed owners of Washington-bred horses finishing first, second, third and fourth in the ((licensee's)) racing association's race meet. The formula for the equitable distribution of the one percent Washington-bred owner's bonus funds ((shall)) will be as follows:

~~((H))~~ (a) Calculate the payment factor by dividing the total ((one percent)) Washington-bred owner's bonus funds collected at the race meet by the total amount of winnings (earnings) of the Washington-bred horses finishing first, second, third, and fourth in the race meet.

~~((2))~~ (b) Multiply the winnings (earnings) of each Washington-bred owner by the payment factor to determine the amount of the ((one percent)) Washington-bred owner's bonus to be paid to the owner.

(2) The Washington-bred breeder's award funds must be collected by the Class A or B racing association as required in RCW 67.16.175, and will be distributed by the commission. The award funds must be paid to the breeder of record of Washington-bred horses finishing first, second, and third in the racing association's race meet. The formula for the distribution of the breeder's awards at each Class A or B racing association will be as follows:

(a) Seventy-five percent of the breeder's award funds will be allocated to those Washington-bred horses finishing first. To calculate the payment factor for first place Washington-bred horses, divide the total Washington-bred breeder award fund allocated to first place finishers at the race meet by the total amount of winnings (earnings) of the Washington-bred horses finishing first at the race meet. Multiply the winnings (earnings) of each Washington-bred breeder by the payment factor to determine the amount of the Washington-bred breeder's award to be paid to the breeder of record.

(b) Fifteen percent of the breeder's award funds will be allocated to those Washington-bred horses finishing second. To calculate the payment factor for second place Washington-bred horses, divide the total Washington-bred breeder award fund allocated to second place finishers at the race meet by the total amount of winnings (earnings) of the Washington-bred horses finishing second at the race meet. Multiply the winnings (earnings) of each Washington-bred breeder by the payment factor to determine the amount of the Washington-bred breeder's award to be paid to the breeder of record.

(c) Ten percent of the breeder's award funds will be allocated to those Washington-bred horses finishing third. To calculate the payment factor for third place Washington-bred horses, divide the total Washington-bred breeder award fund allocated to third place finishers at the race meet by the total amount of winnings (earnings) of the Washington-bred horses finishing third at the race meet. Multiply the winnings (earnings) of each Washington-bred breeder by the payment factor to determine the amount of the Washington-bred breeder's award to be paid to the breeder of record.

(d) The racing association is not required to include any interest or other financial benefit earned during the collection of the breeder's award.

(3) Owner's bonus and breeder's awards must be distributed within ninety days after the end of the race meet at which they were generated. Any owner's bonus or breeder's award that cannot be delivered to the rightful recipient within the time frames in chapter 63.29 RCW will be forwarded to the department of revenue as unclaimed property as required in chapter 63.29 RCW.

NEW SECTION

WAC 260-16-075 Nonprofit race meets exempt from the requirement to collect and distribute owner's bonus and breeder's awards. Nonprofit race meets, as defined in RCW 67.16.105(1) and 67.16.130(1) are exempt from the requirements to collect and distribute owner's bonus and breeder's awards as outlined in this chapter.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 260-16-010	Harness racing.
WAC 260-16-020	Quarter horse racing.
WAC 260-16-030	Produce races.
WAC 260-16-060	Certification of Washington-bred horses—Thoroughbreds.
WAC 260-16-070	Racing commission funds.
WAC 260-16-080	Certification of Washington-bred horses—Standardbreds.
WAC 260-16-090	Arabian horses—Certification.

WSR 07-09-078
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 17, 2007, 2:50 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-05-061.

Title of Rule and Other Identifying Information: Chapter 296-17 WAC, General reporting rules, audit and record-keeping, rates and rating system for workers' compensation insurance.

Hearing Location(s): Department of Labor and Industries Building, Room S119, 7273 Linderson Way S.W., Tumwater, WA 98201 [98501], on May 22, 2007, at 9:30 a.m.

Date of Intended Adoption: May 31, 2007.

Submit Written Comments to: Department of Labor and Industries, Ronald Moore, Program Manager, Employer Services, P.O. Box 44140, Olympia, WA 98501, e-mail MOOA235@nin.wa.gov [MOOA235@lni.wa.gov], fax (360) 902-4729, by 5 p.m. May 22, 2007.

Assistance for Persons with Disabilities: Contact office of information and assistance by May 17, 2007, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making will:

Correct references of chapter 296-17 WAC, classifications to chapter 296-17A WAC. Housekeeping changes need to be made to correct references to the new WAC.

Revise rule WAC 296-17-895 regarding reporting for medical aid holiday.

Clarify drywall rate title to indicate "dollars per sq ft of wallboard" in WAC 296-17-89502 and revise reporting for medical aid holiday.

Clarify horseracing rates in WAC 296-17-89504.

Revise WAC 296-17-31013 to clarify instructions for debris hauling and janitorial.

Permanently add WAC 296-17-891, 296-17-86505, and 296-17-86507 which were filed in an emergency rule on January 22, 2007, (WSR 07-03-125). These tables are necessary to establish experience factors for employers.

Statutory Authority for Adoption: RCW 51.16.035 and 51.16.100.

Statute Being Implemented: RCW 51.16.035 and 51.16.100.

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

Name of Proponent: [Department of labor and industries], governmental.

Name of Agency Personnel Responsible for Drafting: Jo Anne Smith, Tumwater, Washington, (360) 902-4777; Implementation: Ronald Moore, Tumwater, Washington, (360) 902-4748; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In this case the agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates to legislative standards described in RCW 34.05.310 (4)(f) and because the content of the rules is [are] specifically dictated by statute described in RCW 34.05.310 (4)(e).

A cost-benefit analysis is not required under RCW 34.05.328. In this case the agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates to legislative standards described in RCW 34.05.310 (4)(f) and because the content of the rules is [are] specifically dictated by statute described in RCW 34.05.310 (4)(e).

April 17, 2007

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-31001 Introduction. WAC 296-17-31001 through ((296-17-31029)) 296-17-35204 provides rules applicable to workers' compensation insurance coverage (industrial insurance) that employers in the state of Washington must provide for their workers. We refer to these rules (WACs) as sections and the complete body of information as the *workers' compensation underwriting manual*. The workers' compensation underwriting manual contains sections (WACs) that define or explain:

- Words and phrases which we use
- Who the workers' compensation system applies to

- How to obtain workers' compensation coverage
- Why a classification system is necessary
- How our classification plan is designed
- How our classification approach compares to other states
- How we assign classifications to your business
- How we classify your business if a specific classification treatment is not referenced in our classification plan
- How employers report and pay premiums to us
- How we compute base rates
- Audit and recordkeeping requirements
- Experience rating plan
- Base rate tables.

AMENDATORY SECTION (Amending WSR 05-12-031, filed 5/24/05, effective 7/1/05)

WAC 296-17-31002 General rule definitions. In developing the general reporting rules and classifications which govern Washington's workers' compensation classification plan, we have used certain words or phrases which could have several meanings. Many of these words or phrases are defined by law in the Revised Code of Washington (*Title 51 RCW*) and can be found in **Appendix A** of this manual. Some words, however, are not defined by law. To reduce the misunderstanding which can result by our use of certain words or phrases not defined in law (*Title 51 RCW*), we have developed definitions which will govern what these words and phrases mean for purposes of this chapter (*chapter 296-17 WAC*).

The following words or phrases mean:

Account: A unique numerical reference that we assign to you that identifies your business or businesses and allows us to track exposure that you report to us and losses (*claims*) which we pay on your behalf.

Account manager: An individual who works in the underwriting section of the department of labor and industries and manages an employer's workers' compensation insurance account. An account manager is also referred to as an underwriter.

Actual hours worked: A worker's composite work period beginning with the starting time of day that the employee's work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by an employee. The following example is provided to illustrate how work hours are to be reported. If you have questions on reporting please contact our underwriting section at 360-902-4817.

Example: *A carpet installer arrives at the employer's place of business at 8:00 a.m. to pick up supplies, carpet, and the job assignment. The carpet installer arrives at the job site at 9:00 a.m. and works until 12 noon. The installer takes a half hour nonpaid lunch period and resumes working from 12:30 p.m. until 4:00 p.m. The installer then returns to the employer's premise to drop off supplies and carpet waste. The installer leaves the employer's premise at 5:30 p.m. The employer is to report nine hours of work time regardless of*

whether the employee is paid by the hour or by the number of yards of carpet installed.

All: When a classification contains a descriptive phrase beginning with "all" such as in "all employees," "all other employees," "all operations," or "all work to completion," it includes all operations and employments which are normally associated with the type of business covered by the classification. This condition applies even if the operations or employments are physically separated or conducted at a separate location. Operations or employments are to be classified separately when the classification wording requires it, or when the operations or employments are not incidental to, and not usually associated with, the business described by the classification.

And: When this word is contained in any rule it is to be considered the same as the phrase "and/or."

Basic classification: A grouping of businesses or industries having common or similar exposure to loss without regard to the separate employments, occupations or operations which are normally associated with the business or industry. Basic classifications describe a specific type of business operation or industry such as mechanical logging, sawmills, aircraft manufacturing, or restaurants. In most business operations some workers are exposed to very little hazard, while others are exposed to greater hazard. Since a basic classification reflects the liability (*exposure to hazard*) of a given business or industry, all the operations and occupations that are common to an industry are blended together and included in the classification. The rate for a basic classification represents the average of the hazards within the classification. All classifications contained in this manual are considered basic classifications with the exception of classifications 4806, 4900, 4904, 5206, 6301, 6302, 6303, 7100, 7101, and temporary help classifications 7104 through 7122. Classification descriptions contained in WAC (~~(296-17-504)~~) 296-17A-0101 through (~~(296-17-779)~~) 296-17A-7400 establish the intended purpose or scope of each classification. These descriptions will routinely include types of businesses, operations, processes or employments which are either included or excluded from the classification. These references are not to be considered an all inclusive listing unless the classification wording so specifies.

But not limited to: When this phrase is used in any rule in this manual it is not to be interpreted as an all inclusive list. Such a list is meant to provide examples of operations, employments, processes, equipment or types of businesses which are either included or excluded from the scope of the classification.

Excludes or excluding: When a classification contains a descriptive phrase beginning with "excludes" or "excluding" such as "excluding drivers or delivery," "excluding second hand appliance stores," or "excludes construction operations," you must report those operations in a separate classification. If a business fails to keep the records required in the auditing recordkeeping section of this manual and we discover this, we will assign all workers hours for which records were not maintained to the highest rated classification applicable to the work which was performed.

Exposure: Worker hours, worker days, licenses, material, payroll or other measurement which we use to determine

the extent to which an employer's workers have been exposed to the hazards found within a particular business or industry classification.

Governing classification: Is the basic classification assigned to a business that produces the largest number of worker hours during a calendar year (*twelve months*). The governing classification rule applies only to situations where a business has been assigned two or more basic classifications and is used for the sole purpose of determining what classification applies to employees and covered owners who support two or more operations. The governing classification rule is not to be used to determine the basic classification of a business.

Includes or including: When a classification contains a descriptive phrase beginning with "includes" or "including" such as "including clerical office," "including meter readers," or "includes new construction or extension of lines," you must report these operations in that basic classification even though they may be specifically described by some other classification contained in this manual or may be conducted at a separate location.

Industrial insurance: Refer to the definition of "workers' compensation insurance."

N.O.C.: This abbreviation stands for not otherwise classified. Classifications are often worded in this way when there are many variations of the same general type of business and it would be nearly impossible to list all the variations. Before a classification designated with N.O.C. is used, all other related classifications must be reviewed to determine if the business or industry is specified in another classification.

Example: *You operate a retail store that sells greeting cards. In our search to classify your business we come across a classification that covers retail stores N.O.C. Before our underwriter assigns this classification to your business, they would look at other retail store classifications to see if a more precise classification could be found. In our review we note several classifications such as grocery and department stores where greeting cards are sold. None of these classifications, however, specify that they include stores that exclusively sell greeting cards. Classification 6406 "Retail stores, N.O.C.," on the other hand, contains language in its description that states it includes stores that sell items such as greeting cards, table top appliances, tropical fish and birds, and quick print shops. We would assign classification 6406 "Retail stores, N.O.C." to your business.*

Or: Refer to the definition of the word "and."

Premium: The total amount of money owed to the department of labor and industries as calculated by multiplying the assigned classification composite rate by the total units of exposure.

Rate: The amount of premium due for each unit of exposure. All rates are composite rates per worker hour except as otherwise provided for by other rules in this manual.

Risk: All insured operations of one employer within the state of Washington.

Temporary help: The term "temporary help" means the same as temporary service contractors defined in (*Title 19 RCW*) and applies to any person, firm, association or corpo-

ration conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part-time or temporary help basis to others.

Underwriter: Refer to the definition of an "account manager."

Work day: Any consecutive twenty-four hour period.

Work hour: Refer to the definition of "actual hours worked."

Workers' compensation insurance: The obligation imposed on an employer by the industrial insurance laws (*Title 51 RCW*) of the state of Washington to insure the payment of benefits prescribed by such laws.

AMENDATORY SECTION (Amending WSR 00-14-052, filed 7/1/00, effective 7/1/00)

WAC 296-17-31011 Classification system and plan.

(1) What is a workers' compensation classification system?

A workers' compensation classification system is an objective method of collecting money (*premiums*) to pay the benefits of workers injured on the job. We believe the method used to spread this cost among the employers we insure should be fair and have some relationship to their hazard and potential for loss. Classifications are the tool used to achieve a fair method of distributing the risk among employers we insure. Objective boundaries are established for each classification. These boundaries describe the types of businesses which are included in the classification, as well as the operations and employments routinely encountered. We refer to these objective boundaries as the scope of the classification. Once these boundaries have been defined, we can begin collecting information about the employers assigned to each classification. The information includes the exposure which is being covered (*risk*) and the losses (*claims*) which are related to these businesses. Next, we use this information to establish premium rates that employers in each industry will pay for their workers' compensation insurance. Our goal is to produce fair insurance rates which reflect the hazardous nature of each industry. We have tailored our classification system in Washington to reflect industries found in our state. This makes our system responsive to change and provides rate payer equity to the employers we insure. Employers engaged in more hazardous industries such as logging will pay higher insurance rates than employers engaged in less hazardous businesses such as retail store operations.

(2) Why is a classification system needed?

We need a classification system to provide fair premium rates. Washington law (*RCW 51.16.035*) also requires us to have a classification system.

(3) Is the classification system the same as the classification plan?

No, we refer to the body of rules (*WACs*) which establish the general parameters of how classifications are to be used as the "classification system." These rules speak to the requirements of workers' compensation insurance and to our general classification approach, such as classifying by nature of business in the state of Washington, not by occupation of worker. The "classification plan" refers to all of the various classification descriptions which describe different types of

business or industry. The classification system rules (*general rules*) will apply to all businesses unless another treatment is specifically provided for in the classification plan rules (*special rules*).

(4) How is our classification plan designed?

We have designed a plan which is keyed to the nature of the businesses or industries of the employers we insure. Our plan has over three hundred business or industry classifications. Each classification carries a premium rate which reflects the hazards that workers are exposed to. Descriptions of our classifications can be found in *WAC* ((~~296-17-501~~) 296-17A-0101 through ((~~296-17-779~~) 296-17A-7400).

(5) Is your classification approach similar to the approach used by private insurance companies?

Yes, we are required by law (*RCW 51.16.035*) to use the same classification (*underwriting*) approach used by private carriers.

AMENDATORY SECTION (Amending WSR 06-12-075, filed 6/6/06, effective 1/1/07)

WAC 296-17-31013 Building construction. (1) Does this same classification approach apply to building and construction contractors?

Yes, but it may not appear that way without further explanation. We classify contractors by phase and type of construction since it is common for each contract to vary in scope.

Example: A contractor who builds and remodels private residences may frame the structure and work on no other phases of the project. On another job the same contractor may do only the interior finish carpentry. On still another job the contractor may install a wood deck or build a garden arbor. Each of these carpentry activities is covered by a different classification code. To ensure that contractor businesses receive the same treatment as other businesses, we assign classifications according to the phases and types of construction they contract to perform. Since some contractors specialize in one area of construction, such as plumbing, roofing, insulation, or electrical services, this classification approach mirrors that of nonbuilding contractor businesses. The policy of assigning several basic classifications to contractors engaged in multiple phases of construction may seem to be in conflict with the classification approach used for nonbuilding contractor businesses, but we have simply used the **multiple business** classification approach.

If we have assigned multiple classifications to your construction business you should take special care in maintaining the records required in the auditing and recordkeeping section of this manual. If we discover that you have failed to keep the required records we will assign all worker hours for which the records were not maintained to the highest rated classification applicable to the work that was performed.

(2) Who does this rule apply to?

If you are a building, construction or erection contractor and we have assigned one or more of the following classifications to your business, this rule applies to you: 0101, 0103, 0104, 0105, 0107, 0108, 0201, 0202, 0210, 0212, 0214, 0217, 0219, 0301, 0302, 0303, 0306, 0307, 0403, 0502, 0504, 0507, 0508, 0509, 0510, 0511, 0512, 0513, 0514, 0516, 0517, 0518,

0519, 0521, 0540, 0541, 0550, 0551, 0601, 0602, 0603, 0607, 0608, and 0701.

(3) Can I have a single classification assigned to my business to cover a specific construction project?

Yes, to simplify recordkeeping and reporting requirements we will assign a single classification to cover an entire project.

(4) How do I request the single classification for one of my construction projects?

You should send your request to the attention of your account manager at the address below:

Department of Labor and Industries
P.O. Box 44144
Olympia, Washington 98504-4144

(5) If I have asked for a single classification on one of my construction projects, how do you determine which classification will apply?

You must supply us with a description of the project and a break down of the total number of hours of exposure by phase of construction that you are responsible for.

Example: You notify us that your company will be responsible for all plumbing and iron erection work on a commercial building site. You have requested a single classification for this project. In your request you tell us that you estimate that it will take one thousand work hours to perform all the plumbing work and five hundred work hours to do the steel erection work.

With this information we will estimate the premiums by classification.

Example: We determine that the plumbing work is covered under classification 0306 and the steel erection work is covered under classification 0518. Assume that classification 0306 has an hourly premium rate of \$1.50 and classification 0518 has an hourly premium rate of \$2.55. We estimate the total premium on this job to be \$2,775 (1,000 hours x \$1.50 = \$1,500 + 500 hours x \$2.55 = \$1,275).

Our next step in this process is to develop an average hourly rate for the project. We will use this information to select the single classification which will apply to this project.

Example: We will take the estimated premium (\$2,775) and divide this number by the estimated hours (1,500) and arrive at an average hourly rate of \$1.85.

To select the single classification that will apply to a construction project, we will compare the average hourly rate that we have computed to the rates of the classifications applicable to the project. We will select the classification whose hourly rate is the closest to the average hourly rate that we computed from the information you supplied us with.

Example: From the information you supplied, we have determined that the average hourly rate for this project is \$1.85. We also know that the rate for the plumbing classification (0306) is \$1.50 per hour and the rate for steel erection is \$2.55 per hour. We would assign classification 0306 as the single classification applicable to this project.

(6) How will I know what classification will apply to my construction project?

We will send you a written notice which will specify the basic classification and premium rate that will apply to this project.

(7) If I have asked for a single classification to cover one of my construction projects, am I required to use the single classification which you gave me?

No, but you should call your account manager to verify what other classifications would apply to the project. The name and phone number of your account manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at 360-902-4817 and we will put you in contact with your assigned account manager.

(8) I am a general construction or erection contractor, I subcontract all my work and have no employees of my own. Do I have to report to the department of labor and industries?

No, since you do not have employees, you do not need to report to the department of labor and industries. You should be aware that the workers' compensation insurance laws of Washington include certain independent contractors as workers. If we determine that an independent contractor that you used qualifies as a covered worker, you will be responsible for the premium due for their work time. You can also be held responsible for premiums due to labor and industries if you subcontract with an unregistered contractor and they fail to pay premiums on behalf of their employees. It is in your best interest to make sure that your subcontractors are registered contractors in good standing by confirming their status on the department's web site or contacting your account manager.

(9) Am I required to keep any special records of subcontractors that I use?

Yes, you are required to keep certain information about the subcontractors that you use. The information required is:

- Subcontractor's legal name;
- Contractor registration number and expiration date;
- UBI number (or labor and industries account ID number).

If you supply materials to a subcontractor, also keep a record of the:

- Amount of material supplied;
- Project name or location;
- Date material was supplied; and
- Completion date of contracted work.

Failure to maintain these records may result in the subcontractor being considered a covered worker for whom you must report hours.

(10) What classification should I use to report construction site cleanup by my employees? You should report the cleanup of construction debris in the same classification that applied to the work which generated the debris unless another classification treatment is provided for in other rules. For example, if you are a roofing contractor and you have an employee pick up roofing debris at the construction (project) site, you would report the employee involved in the site cleanup in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or

classification 0518 "nonwood frame building construction" assigned to your business, you would report site cleanup in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single-family wood frame dwelling, you would report construction site cleanup by your employees in classification 0510 "wood frame building construction."

(11) I am a construction site clean-up contractor, my employees only pick up construction debris, we do no construction work, what classification do I report site cleanup in? If your employees are collecting and/or removing construction site debris, you would report in classification 4305-22. If your employees are collecting and/or removing nonconstruction debris such as household junk, garden waste, basement debris, furniture and appliances, you would also report in classification 4305-22. If you have contracts to clean up construction debris and also provide preoccupancy clean up work and are not a construction contractor, then you can divide hours between the two risk classifications 4305-22 and 6602-03 providing accurate accounting records are kept for both activities.

(12) What classification should I use to report the work time of my employees when they are involved in the set up of scaffolding, hoists, cranes, towers or elevators at a construction site? We use the same classification treatment for this type of work as we do with construction site cleanup. For example, if you are a roofing contractor and you have an employee set up scaffolding at the construction (project) site, you would report the employee involved in the set up of scaffolding in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report the set up of scaffolding at the construction in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single-family wood frame dwelling, you would report scaffolding set up by your employees in classification 0510 "wood frame building construction." Helicopter services that are engaged to assist in lifting beams, air conditioning units, statues and other objects onto buildings or structures are to be reported separately in classification 6803.

(13) Is preoccupancy cleanup of a building by my employees classified the same as debris cleanup at a construction site? Since your understanding of what preoccupancy clean-up work is may be different from ours, we need to share with you our understanding before we can answer this question. Our understanding in this area is that preoccupancy cleanup occurs after the building is finished. The clean-up work consists of washing paint and overspray from windows, vacuuming carpets, washing floors and fixtures, and dusting woodwork, doors and cabinets. If you have employees whose duties are limited to this type of cleaning, we will allow you to report their work time in classification 6602 "janitors."

(14) If I have an employee who does some construction work, construction site cleanup and preoccupancy cleanup, can I divide their work time between the janitor

and a construction classification? No, we will not permit you to divide the work time of an employee between the janitor classification and a construction classification. If you have an employee who does preoccupancy clean-up work for you, and that employee also performs other nonpreoccupancy clean-up work for you such as construction work, shop work or construction site debris clean-up work, then you must report all of their work time in the applicable construction or nonshop classification.

AMENDATORY SECTION (Amending WSR 06-12-075, filed 6/6/06, effective 1/1/07)

WAC 296-17-31018 Exception classifications. (1) What are exception classifications?

In *WAC 296-17-31012* we discussed our classification policy. We described the process used to classify risk and stated that we assign the basic classification or basic classifications that best describe the nature of your company's business. While this policy is modeled after the policy used by private insurance carriers and is geared to administrative ease for you, we recognize that there are some duties or operations where your employees do not share the same general workplace hazards that your other employees are exposed to. To provide for those operations that are outside the scope of a basic classification, we have created three types of exception classifications listed below:

- Standard exception classifications,
- Special exception classifications, and
- General exclusion classifications.

(2) What are the standard exception classifications?

Standard exception classifications cover those employments that are administrative in nature and common to many industries. Employees covered by a standard exception classification cannot be exposed to any operative hazard of the business. If the language of the basic classification assigned to your business does not include these employments, you may be able to report them separately. The standard exception classifications are:

- Classification 4904 (*WAC ((296-17-653)) 296-17A-4904*) "clerical office employment." This classification includes clerical, administrative, and drafting employees.
- Sales personnel classifications 6301 (*WAC ((296-17-696), 6302 (WAC 296-17-697)) 296-17A-6301*), and 6303 (*WAC ((296-17-698)) 296-17A-6303*) includes outside sales personnel and messengers.
- Classification 7101 (*WAC ((296-17-754)) 296-17A-7101*) applies to corporate officers who have elected optional coverage. A corporate officer as used in these rules is a person who is an officer in the corporation, such as the president, who also serves on the corporation's board of directors and owns stock in the corporation.
- Classification 7100 (*WAC ((296-17-75306)) 296-17A-7100*) applies to members of a limited liability company who have elected optional coverage.

Clerical office employees are defined as employees whose duties are limited to: Answering telephones; handling correspondence; creating or maintaining financial, employ-

ment, personnel, or payroll records; composing informational material on a computer; creating or maintaining computer software; and technical drafting. Their work must be performed in a clerical office which is restricted to:

- A work area which is physically separated by walls, partitions, or other physical barriers, from all other work areas of the employer, and
- Where only clerical office work as described in this rule is performed.

A clerical office does not include any work area where inventory is located, where products are displayed for sale, or area where the customer brings products for payment. Clerical office employees can perform cashiering and telephone sales work if they do not provide any retail or wholesale customer service that involves handling, showing, demonstrating, or delivering any product sold by the employer. Clerical office employees can make bank deposits, pick up and deliver mail at the post office, or purchase office supplies, if their primary work duties are clerical office duties as defined in this rule.

Sales personnel are defined as employees whose duties are limited to: Soliciting new customers by telephone or in person; servicing existing customer accounts; showing, selling, or explaining products or services; completing correspondence; placing orders; performing public relations duties; and estimating. Although some of sales person's duties may be performed in a clerical office, most of their work is conducted away from the employer's physical business location or in showrooms. We refer to work that takes place away from the employer's premises as "*outside sales*." Sales personnel whose duties include customer service activities such as, but not limited to, the delivery of product, stocking shelves, handling inventory, or otherwise merchandising products sold to retail or wholesale customers are excluded from all standard exception classifications. Sales personnel with duties such as delivery and stocking of shelves are to be reported in the basic classification applicable to the business unless the basic classification assigned to the business requires another treatment.

Messengers are defined as employees whose duties are delivering interoffice mail, making deposits, and similar duties that are exclusively for the administration of the employer's business. Classification 6303 "messengers" does not include delivering mail or packages to the employer's customer or as a service to the public. If a messenger is engaged in delivering mail or packages as a service to the public they are to be assigned to the basic classification of the business or classification 1101 as applicable.

Corporate officers duties in classification 7101 must be limited to: Clerical duties; outside sales duties as described above; administrative duties such as hiring staff, attending meetings, negotiating contracts, and performing public relations work. To qualify for this classification, a corporate officer must:

- Be a shareholder in the corporation,
- Be elected as a corporate officer and empowered in accordance with the articles of incorporation or bylaws of the corporation,
- Serve on the corporation's board of directors,

- Not have any exposure to any operative hazard of the business, and
- Not directly supervise employees who have any exposure to any operative hazard of the business.

Members of a limited liability company (LLC) duties in classification 7100 must be limited to: Clerical duties; outside sales duties as described above; administrative duties such as hiring staff, attending meetings, negotiating contracts, and performing public relations work. This includes only those members who have duties and authority similar to the exemption criteria of corporate officers in RCW 51.12.020.

Classification 6303 may apply to a corporate officer or member of a limited liability company whose duties are limited to outside sales activities as described in the sales personnel section of this rule. Under no circumstance is classification 4904 to be assigned to any corporate officer or member of a limited liability company. You cannot divide the work hours of an employee between a standard exception classification and a basic classification unless it is permitted by another rule. If an employee works part of their time in a standard exception classification and part of their time in your basic classification, then all exposure (hours) must be reported in the highest rated basic classification applicable to the work being performed.

(3) What are the special exception classifications?

Special exception classifications represent operations found within an employer's business that are allowed to be reported separately when certain conditions are met. Assuming the conditions noted under each exception below have been met, the following classifications may be used even if your basic classification includes the phrases "all operations" or "all employees." These special exceptions are subject to a division of worker hours in connection with all other basic classifications unless specifically prohibited in an individual classification WAC rule.

Security guards - classification 6601 (*WAC* ((~~296-17-723~~)) 296-17A-6601) will apply if the security guard:

- Is an employee of an employer engaged in logging or construction,
- Is for the purpose of guarding the employer's logging or construction sites,
- Is employed at the site only during the hours the employer is not conducting any other operations at the site,
- Has no other duties during their work shift as a security guard.

If all of the above conditions are not met, the security guard is to be reported in the basic classification applicable to the construction or logging operation being conducted.

Janitors - classification 6602 (*WAC* ((~~296-17-724~~)) 296-17A-6602) will apply if:

- The janitorial/cleaning activities being performed are limited to the employer's clerical office,
- The clerical office meets the criteria described earlier in this rule, and
- The employer's office employment is assigned to be reported in classification 4904.

Construction: Superintendent or project manager - classification 4900 (*WAC* ((~~296-17-64999~~)) 296-17A-4900) will apply if the superintendent or project manager:

- Is an employee of a licensed contractor engaged in construction,
- Has no direct control over work crews,
- Performs no construction labor at the construction site or project location.

If all of the conditions are not met, the superintendent or project manager is to be reported in the basic classification applicable to the construction project.

Construction: Estimator - classification 4911 (*WAC* ((~~296-17-65802~~)) 296-17A-4911) will apply if the estimator:

- Is the employee of a licensed contractor engaged in construction, and
- Has no duties other than estimating during their work shift.

If these conditions are not met, the estimator is to be reported in the basic classification applicable to their employer's business or the construction project.

Log truck drivers - classification 5003 (*WAC* ((~~296-17-66001~~)) 296-17A-5003) will apply if the log truck driver has no other duties during their work shift that are subject to the logging classification 5001 (*WAC* ((~~296-17-659~~)) 296-17A-5001).

(4) What are the general exclusion classifications?

General exclusion classifications represent operations that are so exceptional or unusual that they are excluded from the scope of all basic classifications. If you have these operations, we will assign a separate classification to cover them. You must keep accurate records of the work hours your employees work in these classifications. If you do not keep accurate time records for each employee performing work covered by a general exclusion classification, we will assign the work hours in question to the highest rated classification applicable to those hours. The general exclusion classifications are:

- Aircraft operations: All operations of the flying crew.
- Racing operations: All operations of the drivers and pit crews.
- Diving operations: All operations of diving personnel and ship tenders who assist in diving operations.
- New construction or alterations of the business premises.
- Musicians and entertainers.

A division of work time is permitted between a standard exception classification and flight crew operations, racing operations, or diving operations. If you fail to keep original time records that clearly show the time spent in the office or in sales work, we will assign all work hours in question to the highest rated classification applicable to the work hours in question.

Example: Assume a corporate officer performs duties which are described in classification 7101. Occasionally, the officer flies a plane to attend a meeting. You would report the flying exposure (hours) of the corporate officer in classification 6803. The remainder of the corporate officer's time would continue to be reported in classification 7101.

AMENDATORY SECTION (Amending Order 85-7, filed 2/28/85, effective 4/1/85)

WAC 296-17-352 Audits. An audit of the employer's books, records and payrolls performed pursuant to the authority contained in RCW 51.48.040 may include but will not be limited to:

(1) An audit to determine whether an employer engaged in a business or trade has employment subject to the industrial insurance laws.

(2) A visual inspection of the employer's workplace or places for the purpose of determining appropriate classifications in accordance with the industrial insurance laws and rules as set forth in chapter ((296-17)) 296-17A WAC.

(3) Audits containing a complete and detailed examination of the employer's books and records for a specific period to establish the reporting of the employer's payroll in accordance with the industrial insurance laws and the rules as set forth in chapter 296-17 WAC, and as well, chapter 296-15 WAC in the event the employer has been certified a self-insurer.

Except as otherwise provided in this rule any audit time period may be less than, but will not exceed, three years of the due dates of any payments from any employer where the department has requested submission of the employer's books, or three years of the due dates of any payments where the employer makes claim for adjustment, recomputation or alteration of any such payment: Provided, That an employer certified to self-insure pursuant to the authority contained in chapter 51.14 RCW, shall be subject to such audit as deemed necessary to guarantee its compliance with the industrial insurance laws and rules and regulations for self-insurers: Provided further, That an employer who fails to make any books and records, or certified copies thereof, available for audit in the state of Washington, will be charged for all costs incurred by the department in auditing any books and records maintained at other places: Provided further, That in any instance where fraud may be indicated with respect to underpayment or nonpayment of premiums the audit time period may be extended beyond that previously set forth.

AMENDATORY SECTION (Amending WSR 06-23-127, filed 11/21/06, effective 1/1/07)

WAC 296-17-35203 Special reporting instruction. (1) Professional and semiprofessional athletic teams. Athletes assigned to a Washington-domiciled sports team are mandatorily covered by Washington industrial insurance: Provided, That a professional athlete who is under contract with a parent team domiciled outside of the state of Washington while assigned to a team domiciled within Washington is subject to mandatory coverage by Washington industrial insurance unless the player and employer (parent team) have agreed in writing as to which state shall provide coverage in accordance with RCW 51.12.120(6).

The following rules shall apply to the written agreement:

(a) Agreement must be in writing and signed by the employer and the individual athlete.

(b) Agreement must specify the state that is to provide coverage. The state agreed upon to provide coverage must be a state in which the player's team, during the course of the

season, will engage in an athletic event. For example, if the Washington-based team is a part of a league with teams in only Washington, Oregon, and Idaho, the player and the employer can agree to any of those three states to provide coverage. However, they could not agree to have California provide the coverage as this would not qualify as a state in which the player regularly performs assigned duties.

(c) The state agreed upon accepts responsibility for providing coverage and acknowledges such to the department by certified mail.

(d) Agreement and certification by the other state must be received by this department's underwriting section prior to any injury incurred by the athlete.

(e) Agreement will be for one season only commencing with the assigning of the player to a particular team. A separate agreement and certification must be on file for each additional season.

Failure to meet all of these requirements will result in the athlete being considered a Washington worker for premium and benefit purposes until such time as all requirements have been met.

Professional sports teams who are domiciled outside the state of Washington and who participate in sporting events with Washington-domiciled teams are not subject to Washington industrial insurance for their team members while in this state. These out-of-state teams are not considered employers subject to Title 51 on the basis that they are not conducting a business within this state.

(2) **Excluded employments.** Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.-095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried-part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried-part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) **Special trucking industry rules.** The following subsection shall apply to all trucking industry employers as applicable.

(a) Insurance liability. Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be self-insured with the state of Washington.

Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate and foreign commerce must insure their workers' compensation insurance liability for their Washington employees with the Washington state fund, be self-insured with the state of Washington, or provide workers' compensation insurance for

their Washington employees under the laws of another state when such other state law provides for such coverage.

Interstate or foreign commerce trucking employers who insure their workers' compensation insurance liability under the laws of another state must provide the department with copies of their current policy and applicable endorsements upon request.

Employers who elect to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when requested to do so will be declared an unregistered employer and subject to all the penalties contained in Title 51 RCW.

(b) Reporting. Trucking industry employers insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.

Employers are to report actual hours worked, including time spent loading and unloading trucks, for each driver in their employ. For purposes of this section, actual hours worked does not include time spent during lunch or rest periods or overnight lodging.

Failure of employers to keep accurate records of actual hours worked by their employees will result in the department estimating work hours by dividing gross payroll wages by the state minimum wage for each worker for whom records were not kept. However, in no case will the estimated or actual hours to be reported exceed five hundred twenty hours per calendar quarter for each worker.

(c) Exclusions. Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.

(i) Must be engaged exclusively in interstate or foreign commerce.

(ii) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.

(iii) After having elected coverage, withdrew such coverage in writing to the department on or before January 2, 1987.

If all the conditions set forth in (i), (ii), and (iii) of this subsection have not been met, employers must insure their workers' compensation insurance liability with the Washington state fund or under the laws of another state.

(d) Definitions. For purposes of interpretation of RCW 51.12.095(1) and administration of this section, the following terms shall have the meanings given below:

(i) "Agents" means individuals hired to perform services for the interstate or foreign commerce carrier that are intended to be carried out by the individual and not contracted out to others but does not include owner operators as defined in RCW 51.12.095(1).

(ii) "Contacts" means locations at which freight, merchandise, or goods are picked up or dropped off within the boundaries of this state.

(iii) "Doing business" means having any terminals, agents or contacts within the boundaries of this state.

(iv) "Employees" means the same as the term "worker" as contained in RCW 51.08.180.

(v) "Terminals" means a physical location wherein the business activities (operations) of the trucking company are conducted on a routine basis. Terminals will generally include loading or shipping docks, warehouse space, dispatch offices and may also include administrative offices.

(vi) "Washington" shall be used to limit the scope of the term "employees." When used with the term "employees" it will require the following test for benefit purposes (all conditions must be met).

- The individual must be hired in Washington or must have been transferred to Washington; and
- The individual must perform some work in Washington (i.e., driving, loading, or unloading trucks).

(4) **Forest, range, or timber land services—Industry rule.** Washington law (RCW 51.48.030) requires every employer to make, keep, and preserve records which are adequate to facilitate the determination of premiums (taxes) due to the state for workers' compensation insurance coverage for their covered workers. In the administration of Title 51 RCW, and as it pertains to the forest, range, or timber land services industry, the department of labor and industries has deemed the records and information required in the various subsections of this section to be essential in the determination of premiums (taxes) due to the state fund. The records so specified and required, shall be provided at the time of audit to any representative of the department who has requested them.

Failure to produce these required records within thirty days of the request, or within an agreed upon time period, shall constitute noncompliance of this rule and RCW 51.48.030 and 51.48.040. Employers whose premium computations are made by the department in accordance with (d) of this subsection are barred from questioning, in an appeal before the board of industrial insurance appeals or the courts, the correctness of any assessment by the department on any period for which such records have not been kept, preserved, or produced for inspection as provided by law.

(a) General definitions. For purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Actual hours worked" means each workers' composite work period beginning with the starting time of day that the employees' work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by the employee.

(ii) "Work day" shall mean any consecutive twenty-four-hour period.

(b) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for three full calendar years following the calendar year in which the employment occurred:

- (i) The name of each worker;
- (ii) The Social Security number of each worker;
- (iii) The beginning date of employment for each worker and, if applicable, the separation date of employment for each such worker;

(iv) The basis upon which wages are paid to each worker;

(v) The number of units earned or produced for each worker paid on a piece-work basis;

(vi) The risk classification(s) applicable to each worker;

(vii) The number of actual hours worked by each worker, unless another basis of computing hours worked is prescribed in WAC 296-17-31021. For purposes of chapter 296-17 WAC, this record must clearly show, by work day, the time of day the employee commenced work, and the time of day work ended;

(viii) A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each work day;

(ix) In the event a single worker's time is divided between two or more risk classifications, the summary contained in (b)(viii) of this subsection shall be further broken down to show the actual hours worked in each risk classification for the worker;

(x) The workers' total gross pay period earnings;

(xi) The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld;

(xii) The net pay earned by each such worker.

(c) Business, financial records, and record retention. Every employer is required to keep and preserve all original time records completed by their employees for a three-year period. The three-year period is specified in WAC 296-17-352 as the composite period from the date any such premium became due.

Employers who pay their workers by check are required to keep and preserve a record of all check registers and (~~cancelled~~) cancelled checks; and employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(d) Recordkeeping - estimated premium computation. Any employer required by this section to make, keep, and preserve records containing the information as specified in (b) and (c) of this subsection, who fails to make, keep, and preserve such records, shall have premiums calculated as follows:

(i) Estimated worker hours shall be computed by dividing the gross wages of each worker for whom records were not maintained and preserved, by the state's minimum wage, in effect at the time the wages were paid or would have been paid. However, the maximum number of hours to be assessed under this provision will not exceed five hundred twenty hours for each worker, per quarter for the first audited period. Estimated worker hours computed on all subsequent audits of the same employer that disclose a continued failure to make, keep, or preserve the required payroll and employment records shall be subject to a maximum of seven hundred eighty hours for each worker, per quarter.

(ii) In the event an employer also has failed to make, keep, and preserve the records containing payroll information and wages paid to each worker, estimated average wages for each worker for whom a payroll and wage record was not maintained will be determined as follows: The employer's total gross income for the audit period (earned, received, or anticipated) shall be reduced by thirty-five percent to arrive at

"total estimated wages." Total estimated wages will then be divided by the number of employees for whom a record of actual hours worked was not made, kept, or preserved to arrive at an "estimated average wage" per worker. Estimated hours for each worker will then be computed by dividing the estimated average wage by the state's minimum wage in effect at the time the wages were paid or would have been paid as described in (d)(i) of this subsection.

(e) Reporting requirements and premium payments.

(i) Every employer who is awarded a forest, range, or timber land services contract must report the contract to the department promptly when it is awarded, and prior to any work being commenced, except as provided in (e)(iii) of this subsection. Employers reporting under the provisions of (e)(iii) of this subsection shall submit the informational report with their quarterly report of premium. The report shall include the following information:

(I) The employers' unified business identification account number (UBI).

(II) Identification of the landowner, firm, or primary contractor who awarded the contract, including the name, address, and phone number of a contact person.

(III) The total contract award.

(IV) Description of the forest, range, or timber land services work to be performed under terms of the contract.

(V) Physical location/site where the work will be performed including legal description.

(VI) Number of acres covered by the contract.

(VII) Dates during which the work will be performed.

(VIII) Estimated payroll and hours to be worked by employees in performance of the contract.

(ii) Upon completion of every contract issued by a landowner or firm that exceeds a total of ten thousand dollars, the contractor primarily responsible for the overall project shall submit in addition to the required informational report described in (e)(i) of this subsection, report the payroll and hours worked under the contract, and payment for required industrial insurance premiums. In the event that the contracted work is not completed within a calendar quarter, interim quarterly reports and premium payments are required for each contract for all work done during the calendar quarter. The first such report and payment is due at the end of the first calendar quarter in which the contract work is begun. Additional interim reports and payments will be submitted each quarter thereafter until the contract is completed. This will be consistent with the quarterly reporting cycle used by other employers. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day immediately following the last day of the month following the calendar quarter.

(iii) A contractor may group contracts issued by a landowner, firm, or other contractor that total less than ten thousand dollars together and submit a combined quarterly report of hours, payroll, and the required premium payment in the same manner and periods as nonforestation, range, or timber land services employers.

(f) Out-of-state employers. Forest, range, or timber land services contractors domiciled outside of Washington state must report on a contract basis regardless of contract size for all forest, range, or timber land services work done in Wash-

ington state. Out-of-state employers will not be permitted to have an active Washington state industrial insurance account for reporting forest, range, or timber land services work in the absence of an active Washington forest, range, or timber land services contract.

(g) Work done by subcontract. Any firm primarily responsible for work to be performed under the terms of a forest, range, or timber land services contract, that subcontracts out any work under a forest, range, or timber land services contract must send written notification to the department prior to any work being done by the subcontractor. This notification must include the name, address, Social Security number, farm labor contractor number, (UBI) of each subcontractor, and the amount and description of contract work to be done by subcontract.

(h) Forest, range, or timber land services contract release - verification of hours, payroll, and premium. The department may verify reporting of contractors by way of an on-site visit to an employers' work site. This on-site visit may include close monitoring of employees and employee work hours. Upon receipt of a premium report for a finished contract, the department may conduct an audit of the firm's payroll, employment, and financial records to validate reporting. The entity that awarded the contract can verify the status of the contractors' account online at the department's web site (www.lni.wa.gov) or by calling the account manager. The landowner, firm, or contractor will not be released from premium liability until the final report for the contract from the primary contractor and any subcontractors has been received and verified by the department.

(i) Premium liability - work done by contract. Washington law (RCW 51.12.070) places the responsibility for industrial insurance premium payments primarily and directly upon the person, firm, or corporation who lets a contract for all covered employment involved in the fulfillment of the contract terms. Any such person, firm, or corporation letting a contract is authorized to collect from the contractor the full amount payable in premiums. The contractor is in turn authorized to collect premiums from any subcontractor they may employ his or her proportionate amount of the premium payment.

To eliminate premium liability for work done by contract permitted by Title 51 RCW, any person, firm, or corporation who lets a contract for forest, range, or timber land services work must submit a copy of the contract they have let to the department and verify that all premiums due under the contract have been paid.

Each contract submitted to the department must include within its body, or on a separate addendum, all of the following items:

- (I) The name of the contractor who has been engaged to perform the work;
- (II) The contractor's UBI number;
- (III) The contractor's farm labor contractor number;
- (IV) The total contract award;
- (V) The date the work is to be commenced; a description of the work to be performed including any pertinent acreage information;
- (VI) Location where the work is to be performed;

(VII) A contact name and phone number of the person, firm, or corporation who let the contract;

(VIII) The total estimated wages to be paid by the contractor and any subcontractors;

(IX) The amount to be subcontracted out if such subcontracting is permitted under the terms of the contract;

(X) The total estimated number of worker hours anticipated by the contractor and his/her subcontractors in the fulfillment of the contract terms;

(j) Reports to be mailed to the department. All contracts, reports, and information required by this section are to be sent to:

The Department of Labor and Industries
Reforestation Team 8
P.O. Box 44168
Tumwater, Washington 98504-4168

(k) Rule applicability. If any portion of this section is declared invalid, only that portion is repealed. The balance of the section shall remain in effect.

(5) Logging and/or tree thinning—Mechanized operations—Industry rule. The following subsection shall apply to all employers assigned to report worker hours in risk classification 5005, WAC (~~(296-17-66003)~~) 296-17A-5005.

(a) Every employer having operations subject to risk classification 5005 "logging and/or tree thinning - mechanized operations" shall have their operations surveyed by labor and industries insurance services staff prior to the assignment of risk classification 5005 to their account. Annual surveys may be required after the initial survey to retain the risk classification assignment.

(b) Every employer assigned to report exposure (work hours) in risk classification 5005 shall supply an addendum report with their quarterly premium report which lists the name of each employee reported under this classification during the quarter, the Social Security number of such worker, the piece or pieces of equipment the employee operated during the quarter, the number of hours worked by the employee during the quarter, and the wages earned by the employee during the quarter.

(6) Special drywall industry rule.

(a) What is the unit of exposure for drywall reporting? Your premiums for workers installing and finishing drywall (reportable in risk classifications 0540, 0541, 0550, and 0551) are based on the amount of material installed and finished, not the number of hours worked.

The amount of material installed equals the amount of material purchased or taken from inventory for a job. No deduction can be made for material scrapped (debris). A deduction is allowed for material returned to the supplier or inventory.

The amount of material finished for a job equals the amount of material installed. No deduction can be made for a portion of the job that is not finished (base layer of double-board application or unfinished rooms).

Example: Drywall installation firm purchases 96 4' x 8' sheets of material for a job which includes some double-wall installation. The firm hangs all or parts of 92 sheets, and returns 4 sheets to the supplier for credit. Drywall finishing

firm tapes, primes and textures the same job. Both firms should report 2,944 square feet (4 x 8 x 92) for the job.

(b) I do some of the work myself. Can I deduct material I as an owner install or finish? Yes. Owners (sole proprietors, partners, and corporate officers) who have not elected coverage may deduct material they install or finish.

When you as an owner install (including scrap) or finish (including tape and prime or texture) only part of a job, you may deduct an amount of material proportional to the time you worked on the job, considering the total time you and your workers spent on the job.

To deduct material installed or finished by owners, you must report to the department by job, project, site or location the amount of material you are deducting for this reason. You must file this report at the same time you file your quarterly report:

$$\text{Total owners hours} \div (\text{owners hours} + \text{workers hours}) = \text{\% of owner discount.}$$

$$\text{\% of owner discount} \times (\text{total footage of job} - \text{subcontracted footage, if any}) = \text{Total owner deduction of footage.}$$

(c) Can I deduct material installed or finished by subcontractors? You may deduct material installed or taped by subcontractors you are not required to report as your workers. You may not deduct for material only scrapped or primed and textured by subcontractors.

To deduct material installed or taped by subcontractors, you must report to the department by job, project, site or location the amount of material being deducted. You must file this report at the same time you file your quarterly report. You must have and maintain business records that support the number of square feet worked by the subcontractor.

(d) I understand there are discounted rates available for the drywall industry. How do I qualify for them? To qualify for discounted drywall installation and finishing rates, you must:

(i) Have an owner attend two workshops the department offers (one workshop covers claims and risk management, the other covers premium reporting and recordkeeping);

(ii) Provide the department with a voluntary release authorizing the department to contact material suppliers directly about the firm's purchases;

(iii) Have and keep all your industrial insurance accounts in good standing (including the accounts of other businesses in which you have an ownership interest), which includes fully and accurately reporting and paying premiums as they come due, including reporting material deducted as owner or subcontractor work;

(iv) Provide the department with a supplemental report (filed with the firm's quarterly report) showing by employee the employee's name, Social Security number, the wages paid them during the quarter, how they are paid (piece rate, hourly, etc.), their rate of pay, and what work they performed (installation, scrapping, taping, priming/texturing); and

(v) Maintain accurate records about work you subcontracted to others and materials provided to subcontractors (as required by WAC 296-17-31013), and about payroll and employment (as required by WAC 296-17-35201).

The discounted rates will be in effect beginning with the first quarter your business meets all the requirements for the discounted rates.

Note: If you are being audited by the department while your application for the discounted classifications is pending, the department will not make a final decision regarding your rates until the audit is completed.

(e) Can I be disqualified from using the discounted rates? Yes. You can be disqualified from using the discounted rates for three years if you:

(i) Do not file all reports, including supplemental reports, when due;

(ii) Do not pay premiums on time;

(iii) Underreport the amount of premium due; or

(iv) Fail to maintain the requirements for qualifying for the discounted rates.

Disqualification takes effect when a criterion for disqualification exists.

Example: A field audit in 2002 reveals that the drywall installation firm underreported the amount of premium due in the second quarter of 2001. The firm will be disqualified from the discounted rates beginning with the second quarter of 2001, and the premiums it owed for that quarter and subsequent quarters for three years will be calculated using the nondiscounted rates.

If the drywall underwriter learns that your business has failed to meet the conditions as required in this rule, your business will need to comply to retain using the discounted classifications. If your business does not comply promptly, the drywall underwriter may refer your business for an audit.

If, as a result of an audit, the department determines your business has not complied with the conditions in this rule, your business will be disqualified from using the discounted classifications for three years (thirty-six months) from the period of last noncompliance.

(f) If I discover I have made an error in reporting or paying premium, what should I do? If you discover you have made a mistake in reporting or paying premium, you should contact the department and correct the mistake. Firms not being audited by the department who find errors in their reporting and paying premiums, and who voluntarily report their errors and pay any required premiums, penalties and interest promptly, will not be disqualified from using the discounted rates unless the department determines they acted in bad faith.

(7) Safe patient handling rule. The following subsection will apply to all hospital industry employers as applicable.

(a) Definitions. For the purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Hospital" means an "acute care hospital" as defined in (a)(ii) of this subsection, a "mental health hospital" as defined in (a)(iii) of this subsection, or a "hospital, N.O.C. (not otherwise classified)" as defined in (a)(iv) of this subsection.

(ii) "Acute care hospital" means any institution, place, building, or agency providing accommodations, facilities, and services over a continuous period of twenty-four hours or more for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services

would be appropriate for care or diagnosis. "Hospital" as used in this rule does not include:

Hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include

Clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include

Nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include

Birthing centers, which come within the scope of chapter 18.46 RCW; nor does it include

Psychiatric or alcoholism hospitals, which come within the scope of chapter 71.12 RCW; nor

Any other hospital or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions.

Furthermore, nothing in this chapter will be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denominations.

(iii) "Mental health hospital" means any hospital operated and maintained by the state of Washington for the care of the mentally ill.

(iv) "Hospitals, N.O.C." means health care facilities that do not qualify as acute care or mental health hospitals and may be privately owned facilities established for purposes such as, but not limited to, treating psychiatric disorders and chemical dependencies or providing physical rehabilitation.

(v) "Safe patient handling" means the use of engineering controls, lifting and transfer aids, or assistance devices, by lift teams or other staff, instead of manual lifting to perform the acts of lifting, transferring and repositioning health care patients.

(vi) "Lift team" means hospital employees specially trained to conduct patient lifts, transfers, and repositioning using lifting equipment when appropriate.

(vii) "Department" means the department of labor and industries.

(b) Hospitals will report worker hours in the risk classification that describes the nature of their operations and either their level of implementation of, or need for, the safe patient handling program.

(c) A fully implemented safe patient handling program must include:

(i) Acquisition of at least the minimum number of lifts and/or appropriate equipment for use by lift teams as specified in chapters 70.41 and 72.23 RCW.

(ii) An established safe patient handling committee with at least one-half of its membership being front line, nonmanagerial direct care staff to design and recommend the process for implementing a safe patient handling program.

(iii) Implementation of a safe patient handling policy for all shifts and units.

(iv) Conducting patient handling hazard assessments to include such variables as patient-handling tasks, types of

nursing units, patient populations, and the physical environment of patient care areas.

(v) Developing a process to identify appropriate use of safe patient handling policy based on a patient's condition and availability of lifting equipment or lift teams.

(vi) Conducting an annual performance evaluation of the program to determine its effectiveness with results reported to the safe patient handling committee.

(vii) Consideration, when appropriate, to incorporate patient handling equipment or the physical space and construction design needed to incorporate that equipment at a later date during new construction or remodeling.

(viii) Development of procedures that allow employees to choose not to perform or participate in patient handling activities that the employee believes will pose a risk to him/herself or to the patient.

(d) Department staff will conduct an on-site survey of each acute care and mental health hospital before assigning a risk classification. Subsequent surveys may be conducted to confirm whether the assigned risk classification is still appropriate.

(e) To remain in classification 6120-00 or 7200-00, a hospital must submit a copy of the annual performance evaluation of their safe patient handling program, as required by chapters 70.41 and 72.23 RCW, to the Employer Services Program, Department of Labor and Industries, P.O. Box 44161, Olympia, Washington, 98504.

NEW SECTION

WAC 296-17-86505 2007 Alternative claim-free experience modification calculation. The following experience modification factor calculation is similar to the experience rating calculation used in 2006 for employers with no compensable accident during the experience period. The experience modification factor shall be calculated the same way as WAC 296-17-860 with the following exceptions:

(1) In WAC 296-17-885, the Expected Loss Rate and Primary Ratio Table IIIA shall be used instead of Table III.

(2) The Maximum Experience Modification Table IVA in WAC 296-17-891 shall be used instead of Table IV in WAC 296-17-890.

NEW SECTION

WAC 296-17-86507 2007 Claim-free experience modification phase-in limitation. For calendar year 2007, if the experience modification factor using WAC 296-17-860 is greater than 100% of the experience modification factor using WAC 296-17-86505, then the experience modification factor shall be limited to 100% of the factor using WAC 296-17-86505.

AMENDATORY SECTION (Amending WSR 05-23-161, filed 11/22/05, effective 1/1/06)

WAC 296-17-870 Evaluation of actual losses. Except as provided in the following subsections of this paragraph, actual losses shall include all payments as of the "valuation date" for each claim arising from an accident occurring during the experience period. Losses for claims open as of the

valuation date may also include a reserve for future payments. Actual losses on claims for accidents occurring outside of the experience period shall not be included.

(1) **Valuation date.** The valuation date shall be on and include December 31, one year and one day immediately preceding the effective date of premium rates as set forth in WAC 296-17-895. For experience modifications effective January 1, 1990, and thereafter, the valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

(2) **Retroactive adjustments - revision of losses between valuation dates.** No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

(a) In cases where loss values are included or excluded through mistake other than error of judgment.

(b) In cases where a third party recovery is made, subject to subsection (4)(a) of this section.

(c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.

(d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).

(e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the claim was included. Retroactive adjustments will not be made for rating periods more than ten years prior to the date on which the claim status was changed.

(3) **Average death value.** Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value." The "average death value" shall be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in WAC 296-17-880 (Table II).

(4) **Third-party recovery - effect on experience modification.**

(a) For claims with injury dates prior to July 1, 1994, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of actual losses until such time as the third-party action has been completed. If a third-party recovery is made after a claim had previously been used in an experience modification calculation, the experience modification shall be retroactively adjusted. The department shall compute a percentage recovery by dividing the current valuation of the claim into the amount recovered or recoverable as of the recovery date, and shall reduce both primary and excess losses previously used in the experience modification calculation by that percentage.

(b) For claims with injury dates on or after July 1, 1994, if the department determines that there is a reasonable potential of recovery from an action against a third party, both primary and excess values of the claim shall be reduced by fifty

percent for purposes of experience modification calculation, until such time as the third-party action has been completed. This calculation shall not be retroactively adjusted, regardless of the final outcome of the third-party action. After a third-party recovery is made, the actual percentage recovery shall be applied to future experience modification calculations.

(c) For third-party actions completed before July 1, 1996, the claim shall be credited with the department's net share of the recovery, after deducting attorney fees and costs. For third-party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.

(d) **Definitions:**

(i) As used in this section, "recovery date" means the date the money is received at the department or the date the order confirming the distribution of the recovery becomes final, whichever comes first.

(ii) As used in this section, "recoverable" means any amount due as of the recovery date and/or any amount available to offset case reserved future benefits.

(5) **Second injury claims.** The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

(6) **Occupational disease claims.** When a claim results from an employee's exposure to an occupational disease hazard, the "date of injury," for the purpose of experience rating, will be the date the disability was diagnosed and that gave rise to the filing of a claim for benefits. The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for at least ten percent of the claimant's exposure to the hazard, shall be charged for his/her share of the claim based upon the prorated costs.

(7) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in WAC 296-17-880 (Table II).

(8) **Catastrophic losses.** Whenever a single accident results in the deaths or total permanent disability of three or more workers employed by the same employer, costs charged to the employer's experience shall be limited as required by RCW 51.16.130.

(9) **Acts of terrorism.** Whenever any worker insured with the state fund sustains an injury or occupational disease as a result of an incident certified to be an act of terrorism under the U.S. Terrorism Risk Insurance Act of 2002, the costs of the resulting claim shall be excluded from the experience rating computation of the worker's employer.

(10) **Claims filed by preferred workers.** The costs of subsequent claims filed by certified preferred workers will not be included in experience calculations, as provided in WAC 296-16-010.

(11) **Life and rescue phase of emergencies:** This provision applies to "emergency workers" of nongovernmental

employers assigned to report in classification 7205 (WAC ((296-17-76601) 296-17A-7205) who assist in a life and rescue phase of a state or local emergency (disaster). The life and rescue phase of an emergency is defined in RCW 51.16.130(3) as being the first seventy-two hours after a natural or man-made disaster has occurred. For an employer to qualify for this special experience rating relief, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing survivors. This special relief is only applicable to nongovernmental employers during this initial seventy-two hour phase of the declared emergency unless the emergency has been extended by the official who declared the emergency. The cost of injuries or occupational disease claims filed by employees of nongovernmental employers assisting in the life and rescue phase of a declared emergency will not be charged to the experience record of the nongovernmental state fund employer.

Expected Loss Range		Maximum Experience Modification
27,899	- 30,213	0.68
30,214	- 32,738	0.67
32,739	- 35,502	0.66
35,503	- 38,542	0.65
38,543	- 41,900	0.64
41,901	- 45,629	0.63
45,630	- 49,793	0.62
49,794	- 54,476	0.61
54,477	& Higher	0.60

AMENDATORY SECTION (Amending WSR 07-07-032 and 07-07-129, filed 3/12/07 and 3/21/07, effective 7/1/07)

WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry. Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

NEW SECTION

WAC 296-17-891 Table IV-A.

**Alternate "old" 2007 method
Maximum experience modifications
for firms with no compensable accidents:
Effective 1/1/2007 to 12/31/2007**

Expected Loss Range	Maximum Experience Modification
1 - 2,995	0.90
2,996 - 3,644	0.89
3,645 - 4,322	0.88
4,323 - 5,031	0.87
5,032 - 5,777	0.86
5,778 - 6,558	0.85
6,559 - 7,381	0.84
7,382 - 8,246	0.83
8,247 - 9,157	0.82
9,158 - 10,120	0.81
10,121 - 11,137	0.80
11,138 - 12,214	0.79
12,215 - 13,355	0.78
13,356 - 14,569	0.77
14,570 - 15,860	0.76
15,861 - 17,237	0.75
17,238 - 18,708	0.74
18,709 - 20,285	0.73
20,286 - 21,977	0.72
21,978 - 23,799	0.71
23,800 - 25,767	0.70
25,768 - 27,898	0.69

Base Rates Effective
January 1, 2007

Class	Accident Fund	Medical Aid Fund
0101	1.5102	0.7102
0103	1.9285	0.9063
0104	1.0954	0.5189
0105	1.4873	0.8554
0107	1.4779	0.6467
0108	1.0954	0.5189
0112	0.8855	0.4502
0201	2.9771	1.1228
0202	3.5865	1.7260
0210	1.4481	0.5946
0212	1.5741	0.6908
0214	1.5723	0.6391
0217	1.2903	0.6064
0219	1.0310	0.5979
0301	0.6338	0.4127
0302	2.4031	0.8991
0303	2.2735	0.8789
0306	1.2097	0.5013
0307	1.0909	0.5375
0308	0.5462	0.3967
0403	1.8151	1.0914
0502	1.8533	0.7421
0504	1.6756	0.8618
0507	3.1395	1.7331
0508	2.4004	0.8899

Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
0509	1.9140	0.7798	1703	1.1204	0.3557
0510	1.6923	0.9163	1704	1.0239	0.5509
0511	1.9177	0.8731	1801	0.5826	0.3513
0512	1.8329	0.7927	1802	0.8068	0.4272
0513	0.9923	0.4630	2002	0.7386	0.5182
0514	2.1735	1.0436	2004	1.0135	0.6728
0516	1.8907	0.8933	2007	0.4854	0.3184
0517	1.9313	1.0352	2008	0.3401	0.2179
0518	1.9005	0.8052	2009	0.3930	0.3170
0519	2.6218	1.1503	2101	0.7007	0.4712
0521	0.6073	0.3376	2102	0.5642	0.4120
0601	0.7416	0.3729	2104	0.3307	0.2965
0602	0.9248	0.4189	2105	0.6213	0.4048
0603	1.2551	0.4830	2106	0.4365	0.3199
0604	1.0086	0.6823	2201	0.2530	0.1745
0606	0.5608	0.3679	2202	0.7733	0.4742
0607	0.5428	0.3239	2203	0.4765	0.3581
0608	0.4330	0.2432	2204	0.2530	0.1745
0701	2.7040	0.7317	2401	0.5360	0.3290
0803	0.4986	0.3150	2903	0.6629	0.4833
0901	1.9005	0.8052	2904	0.7700	0.5325
1002	1.0349	0.6322	2905	0.5443	0.4428
1003	0.8552	0.5082	2906	0.3483	0.2395
1004	0.5814	0.3011	2907	0.5409	0.3986
1005	9.6730	4.4009	2908	1.1619	0.6262
1007	0.4244	0.2189	2909	0.3916	0.2927
1101	0.7541	0.4688	3101	1.0863	0.5612
1102	1.5286	0.7283	3102	0.2872	0.1983
1103	1.3045	0.7863	3103	0.6003	0.3802
1104	0.5311	0.4052	3104	0.6744	0.3701
1105	1.0005	0.5747	3105	0.7886	0.5375
1106	0.3267	0.2807	3303	0.4653	0.3088
1108	0.6894	0.4434	3304	0.4574	0.3817
1109	1.5396	0.9942	3309	0.4556	0.3036
1301	0.7669	0.3602	3402	0.5828	0.3664
1303	0.2400	0.1527	3403	0.2137	0.1418
1304	0.0296	0.0192	3404	0.5027	0.3517
1305	0.4356	0.2806	3405	0.3434	0.2232
1401	0.4876	0.3476	3406	0.1960	0.1695
1404	0.7669	0.5189	3407	0.7729	0.4525
1405	0.6008	0.3976	3408	0.1880	0.1246
1407	0.6165	0.4427	3409	0.1663	0.1403
1501	0.6346	0.3723	3410	0.2803	0.2240
1507	0.5820	0.3399	3411	0.5284	0.3058
1701	1.0239	0.5509	3412	0.6816	0.3328
1702	2.5949	0.9691	3414	0.6261	0.3601

Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
3415	0.8773	0.5152	4806	0.0566	0.0450
3501	1.1294	0.7094	4808	0.4945	0.3441
3503	0.2759	0.2748	4809	0.3766	0.3045
3506	1.3792	0.5391	4810	0.1332	0.1225
3509	0.3980	0.3263	4811	0.2506	0.2279
3510	0.3848	0.2760	4812	0.3967	0.3054
3511	0.7602	0.5032	4813	0.1493	0.1295
3512	0.3360	0.2880	4900	0.3884	0.1773
3513	0.4523	0.3564	4901	0.0867	0.0511
3602	0.1286	0.0963	4902	0.1098	0.0738
3603	0.4908	0.3451	4903	0.1675	0.1054
3604	0.8076	0.6067	4904	0.0304	0.0237
3605	0.5803	0.3382	4905	0.3208	0.2955
3701	0.2872	0.1983	4906	0.0986	0.0692
3702	0.4833	0.3360	4907	0.0513	0.0399
3708	0.7128	0.4106	4908	0.0799	0.1152
3802	0.1954	0.1415	4909	0.0381	0.0622
3808	0.4773	0.2627	4910	0.4829	0.3235
3901	0.1540	0.1481	4911	0.0697	0.0500
3902	0.5034	0.3777	5001	6.0252	2.4999
3903	1.0439	0.8858	5002	0.6557	0.3944
3905	0.1447	0.1398	5003	2.3613	0.9947
3906	0.4803	0.3556	5004	0.9584	0.6259
3909	0.2474	0.2162	5005	0.6550	0.3265
4002	1.6280	0.7618	5006	1.9073	0.8254
4101	0.3183	0.2031	5101	0.9648	0.6286
4103	0.4048	0.3771	5103	0.7356	0.5874
4107	0.1686	0.1219	5106	0.7356	0.5874
4108	0.1487	0.1119	5108	0.9177	0.6739
4109	0.2210	0.1513	5109	0.6542	0.3966
4201	0.8230	0.3679	5201	0.4666	0.2945
4301	0.6687	0.5001	5204	0.9946	0.6060
4302	0.6992	0.4650	5206	0.4708	0.2584
4304	1.0132	0.7360	5207	0.1551	0.1536
4305	1.4391	0.6544	5208	0.8852	0.5790
4401	0.4070	0.2945	5209	0.8151	0.4940
4402	0.8309	0.6355	5300	0.1098	0.0738
4404	0.5665	0.4215	5301	0.0330	0.0267
4501	0.1849	0.1590	5302	0.0207	0.0154
4502	0.0399	0.0354	5305	0.0498	0.0464
4504	0.1011	0.1050	5306	0.0605	0.0494
4601	0.7733	0.5186	5307	0.5858	0.3420
4802	0.2979	0.2248	6103	0.0753	0.0755
4803	0.2438	0.2354	6104	0.3560	0.2884
4804	0.5360	0.3861	6105	0.3714	0.2395
4805	0.2812	0.2436	6107	0.1224	0.1320

Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
6108	0.4166	0.3694	6607	0.1746	0.1260
6109	0.0980	0.0688	6608	0.6917	0.2648
6110	0.6353	0.4328	6620	4.8308	2.9905
6120	0.2971	0.1916	6704	0.1754	0.1209
6121	0.3714	0.2395	6705	0.6966	0.7926
6201	0.3576	0.2052	6706	0.3005	0.2637
6202	0.6582	0.4908	6707	3.4221	2.9240
6203	0.0825	0.1050	6708	6.9097	7.8371
6204	0.1219	0.1102	6709	0.2714	0.2477
6205	0.2469	0.1932	6801	0.6708	0.4154
6206	0.2350	0.1773	6802	0.4546	0.3395
6207	0.9090	0.9446	6803	1.0265	0.4432
6208	0.2207	0.2133	6804	0.2946	0.1943
6209	0.3010	0.2576	6809	4.7278	4.0617
6301	0.1529	0.0747	6901	0.0000	0.0584
6302	0.1776	0.1483	6902	1.2857	0.4644
6303	0.0725	0.0510	6903	8.6855	3.9709
6304	0.3757	0.3458	6904	0.4799	0.2432
6305	0.0909	0.0884	6905	0.4281	0.2567
6306	0.3406	0.2448	6906	0.0000	0.2567
6308	0.0669	0.0483	6907	1.3109	0.8611
6309	0.1776	0.1483	6908	0.4925	0.3340
6402	0.2832	0.2378	6909	0.1169	0.0963
6403	0.1593	0.1422	7100	0.0327	0.0243
6404	0.2184	0.1745	7101	0.0255	0.0175
6405	0.6377	0.3937	7102	3.0801	4.2970
6406	0.1116	0.0981	7103	0.6772	0.3641
6407	0.2793	0.2110	7104	0.0310	0.0234
6408	0.4131	0.2828	7105	0.0316	0.0254
6409	0.9934	0.5215	7106	0.1887	0.1614
6410	0.2946	0.2151	7107	0.2015	0.1987
6501	0.1719	0.1293	7108	0.1703	0.1730
6502	0.0403	0.0313	7109	0.1259	0.1085
6503	0.0902	0.0447	7110	0.3871	0.2062
6504	0.3636	0.3535	7111	0.4265	0.2329
6505	0.0944	0.0974	7112	0.6466	0.4776
6506	0.0994	0.0899	7113	0.3368	0.3040
6509	0.3492	0.3076	7114	0.5211	0.4502
6510	0.5441	0.2700	7115	0.5380	0.4693
6511	0.3269	0.2768	7116	0.6929	0.5136
6512	0.2715	0.2105	7117	1.5938	1.2207
6601	0.1848	0.1493	7118	1.3242	1.0182
6602	0.4685	0.3511	7119	1.3808	0.9103
6603	0.3564	0.2275	7120	6.4082	4.2401
6604	0.0833	0.0656	7121	5.9556	3.9464
6605	0.2779	0.2818	7122	0.5236	0.4754

Class	Accident Fund	Medical Aid Fund
7200	1.2338	0.6227
7201	1.5423	0.7784
7202	0.0414	0.0226
7203	0.1053	0.1217
7204	0.0000	0.0000
7205	0.0000	0.0000
7301	0.5041	0.3715
7302	0.9770	0.7401
7307	0.4868	0.3880
7308	0.2678	0.2871
7309	0.2410	0.2315
7400	1.5423	0.7784

For work performed during the period July 1, 2007, through December 31, 2007, ~~((and reported and paid in full to the department no later than April 30, 2008;))~~ employers shall not be required to pay nor shall they be entitled to deduct from workers' pay, medical aid premium; such premiums shall be deemed to have been paid by the department out of the medical aid fund.

In calendar year 2008, the department will pay such dividends from the accident fund to employers not participating in the retrospective rating program during the period July 1, 2007, through December 31, 2007, as the department's actuaries determine to be necessary to equalize the proportion of losses funded between retro and nonretro employers.

AMENDATORY SECTION (Amending WSR 07-07-032 and 07-07-129, filed 3/12/07 and 3/21/07, effective 7/1/07)

WAC 296-17-89502 Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

Base Rates in Dollars Per Sq. Ft. of Wallboard Effective January 1, 2007

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
0540	0.0268	0.0111	0.0005
0541	0.0161	0.0062	0.0005
0550	0.0375	0.0124	0.0005
0551	0.0218	0.0073	0.0005

For work performed during the period July 1, 2007, through December 31, 2007, ~~((and reported and paid in full to the department no later than April 30, 2008;))~~ employers shall not be required to pay nor shall they be entitled to deduct from workers' pay, medical aid premium; such premiums shall be

deemed to have been paid by the department out of the medical aid fund.

In calendar year 2008, the department will pay such dividends from the accident fund to employers not participating in the retrospective rating program during the period July 1, 2007, through December 31, 2007, as the department's actuaries determine to be necessary to equalize the proportion of losses funded between retro and nonretro employers.

AMENDATORY SECTION (Amending WSR 07-07-032 and 07-07-129, filed 3/12/07 and 3/21/07, effective 7/1/07)

WAC 296-17-89504 Horse racing industry industrial insurance, medical aid, and supplemental pension by class.

Base Rates Per License Effective January 1, 2007

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
6614	44((*))	35((*))	1((*))
6615	309((*))	270((*))	1((*))
6616	14((*))	10((*))	1((*))
6617	103((*))	76((*))	1((*))
6618	99((*))	50((*))	1((*))

Base Rates Per Twelve Horse Stalls Effective January 1, 2007

6622	565((**))	449((**))	1((**))
6623	207((**))	147((**))	1((**))

((*)) These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

((**)) These rates are calculated on a per 12 horse stalls for parimutuel race tracks and are base rated.

WSR 07-09-079
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 17, 2007, 3:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-05-060.

Title of Rule and Other Identifying Information: Chapter 296-17A WAC, Classifications for workers' compensation insurance.

Hearing Location(s): Department of Labor and Industries Building, Room S119, 7273 Linderson Way S.W., Tumwater, WA 98501, on May 22, 2007, at 10:30 a.m.

Date of Intended Adoption: May 31, 2007.

Submit Written Comments to: Mr. Ronald Moore, Program Manager, Employer Services, P.O. Box 44140, Olympia, WA 98504-4140, e-mail MOOA235@lni.wa.gov, fax (360) 902-4729, by 5 p.m., May 22, 2007.

Assistance for Persons with Disabilities: Contact office of information and assistance by May 17, 2007, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Housekeeping changes have been made to nineteen classifications (see below). These changes are primarily grammatical corrections, changes in references to other classifications, and minor additions or deletions. A new subclassification was created for log home manufacturing.

Amending WAC 296-17A-0307 Classification 0307, 296-17A-0510 Classification 0510, 296-17A-1002 Classification 1002, 296-17A-1003 Classification 1003, 296-17A-1101 Classification 1101, 296-17A-1105 Classification 1105, 296-17A-1108 Classification 1108, 296-17A-1407 Classification 1407, 296-17A-1501 Classification 1501, 296-17A-2903 Classification 2903, 296-17A-2908 Classification 2908, 296-17A-3402 Classification 3402, 296-17A-3406 Classification 3406, 296-17A-3414 Classification 3414, 296-17A-5001 Classification 5001, 296-17A-5109 Classification 5109, 296-17A-6409 Classification 6409, 296-17A-6510 Classification 6150, and 296-17A-6511 Classification 6511.

Reasons Supporting Proposal: Most proposals are general housekeeping changes. The log home manufacturing subclassification was created at the suggestion of the industry.

Statutory Authority for Adoption: RCW 51.16.035 and 51.16.100.

Statute Being Implemented: RCW 51.16.035 and 51.16.100.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Bill Moomau, Tumwater, Washington, (360) 902-4774; Implementation: Ronald Moore, Tumwater, Washington, (360) 902-4748; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In this case the agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates to legislative standards described in RCW 34.05.310 (4)(f) and because the content of the rules is [are] specifically dictated by statute described in RCW 34.05.310 (4)(e).

A cost-benefit analysis is not required under RCW 34.05.328. In this case, the agency is exempt from conducting a cost-benefit analysis since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.328 (5)(b)(vi) and because the content of the rules is [are] specifically dictated by statute described in RCW 34.05.328 (5)(b)(v).

April 17, 2007
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-0307 Classification 0307.

0307-01 Furnaces and heating systems: Installation, service or repair

Applies to contractors engaged in the installation, service, or repair of furnaces and heating systems, including duct work, in all types of residential and commercial settings. These services are generally performed by furnace contractors, heating and ventilation contractors, or sheet metal contractors. Work contemplated by this classification includes the fabrication, erection, installation and duct work performed at the job site. Materials include, but are not limited to, gas or electric furnace units, heater units, heat pumps, air purification systems, fireplace inserts or units, hot water tanks, thermostats, flat sheets of metal, vents, preformed or bent venting duct and pipe, vent collars and reels, fittings, galvanized pipe, insulation wrap, concrete pads and gas logs. Contractors who operate a sheet metal fabrication shop or who prefabricate the duct systems in a shop away from the construction site are to be assigned classification ((~~3402~~) 3404) for the shop fabrication work. When a contractor's business is assigned classification ((~~3402~~) 3404) for shop operations, then classification 5206, "Permanent yard or shop," is no longer applicable to the contractor's business for the storage of materials or repair to equipment.

This classification excludes sheet metal fabrication shops which are to be reported separately in classification ((~~3402~~) 3404); duct cleaning work which is to be reported separately in classification 1105; installation or repair of ventilation, air conditioning and refrigeration systems which is to be reported separately in classification 0307-04; or the installation of wood stoves which is to be reported separately in classification 0307-05.

Special note: This classification includes the installation of display areas or showrooms which provide prospective customers an opportunity to inspect the quality of workmanship and products carried by the contractor. Generally, displays or showrooms are installed where the contractors store their materials. It is common for contractors subject to this classification to sell furnace and heating system materials and accessories, but the intent of these areas is not to sell products to walk-in customers. Sales of these products by a furnace and heating systems contractor are included in classification 0307. Classification 2009, 6309, or similar store classifications, are not to be assigned to a contracting business. Employees engaged exclusively in showing the display areas or showrooms to customers are to be assigned classification 6303 provided the conditions of the standard exception general reporting rule have been met.

0307-04 Ventilating, air conditioning and refrigeration systems: Installation, service or repair, N.O.C.

Applies to contractors engaged in the installation, service, or repair of ventilating, air conditioning and refrigeration systems not covered by another classification (N.O.C.), including duct work at the job site in all types of residential and commercial settings. These services are generally performed by heating and ventilation contractors, refrigeration contractors, or sheet metal contractors. Work contemplated

by this classification includes the fabrication, erection, installation and duct work performed at the job site. Materials include, but are not limited to, air conditioning units, refrigeration systems, air purification systems, hoods and protective metal covers, hot water tanks, flat sheets of metal, vents, preformed or bent duct portions, vent collars and reels, thermostats, fittings, galvanized pipe, insulation wrap, and concrete pads. This classification includes the installation or repair of built-in vacuum systems and air (pneumatic) tube systems, such as those at drive-up teller windows. Contractors who operate a sheet metal fabrication shop or who prefabricate the duct systems in a shop away from the construction site are to be assigned classification ((3402)) 3404 for the shop fabrication work. When a contractor's business is assigned classification ((3402)) 3404 for shop operations, then classification 5206 "Permanent yard or shop" is no longer applicable to the contractor's business for the storage of materials or repair to equipment.

This classification excludes sheet metal fabrication shops which are to be reported separately in classification 3402; installation or repair of furnace or heating systems which is to be reported separately in classification 0307-01; and the installation of wood stoves which is to be reported separately in classification 0307-05.

Special note: This classification includes the installation of display areas or showrooms which provide prospective customers an opportunity to inspect the quality of workmanship and products carried by the contractor. Generally, displays or showrooms are installed where the contractors store their materials. It is common for contractors subject to this classification to sell ventilating and air conditioning equipment and materials, but the intent of these areas is not to sell products to walk-in customers. Sales of these products by a ventilating and air conditioning contractor are included in classification 0307. Classifications 2009, 6309, or similar store classifications, are not to be assigned to a contracting business. Employees engaged exclusively in showing the display areas or showrooms to customers are to be assigned classification 6303 provided the conditions of the standard exception general reporting rule have been met.

0307-05 Wood, pellet, or gas stove: Installation, service or repair

Applies to contractors engaged in the installation, service or repair of wood, pellet or gas stoves in all types of residential and commercial settings. Work contemplated by this classification includes the fabrication, installation and duct work performed at the job site. Materials include, but are not limited to, wood, gas or pellet stoves, inserts, heater units, protective metal covers or hoods, gas fireplace logs, preformed or bent venting duct and pipe, or vents and vent collars. Contractors who operate a sheet metal fabrication shop or who prefabricate the duct systems in a shop away from the installation site are to be assigned classification 3402 for the shop fabrication work. When a contractor's business is assigned classification 3402 for the shop operations, then classification 5206, "Permanent yard or shop," is no longer applicable to the contractor's business for the storage of materials or repair to equipment.

This classification excludes wood stove and accessory stores which are to be reported separately in classification

6309; stove manufacturing which is to be reported separately in classification ((5209)) 3402; sheet metal fabrication shops which are to be reported separately in classification ((3402)) 3404; brick or masonry work which is to be reported separately in classification 0302; and the installation or repair of furnace or heating systems which is to be reported separately in classification 0307-01.

Special note: This classification includes the installation of display areas or showrooms which provide prospective customers an opportunity to inspect the quality of workmanship and products carried by the contractor. Generally, displays or showrooms are installed where the contractors store their materials. It is common for contractors subject to this classification to sell wood stove installation materials and accessories, but the intent of these areas is not to sell products to walk-in customers. Sales of these products by a wood stove installation contractor are included in classification 0307. Classifications 2009, 6309, or similar store classifications, are not to be assigned to a contracting business. Employees engaged exclusively in showing the display areas or showrooms to customers are to be assigned classification 6303 provided the conditions of the standard exception general reporting rule have been met.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-0510 Classification 0510.

0510-00 Wood frame building: Construction or alterations, N.O.C.

Applies to contractors engaged in wood frame building construction or alterations not covered by another classification (N.O.C.). For the purposes of this classification, wood frame building construction means buildings erected exclusively of wood or wood products. This classification includes all building framing activities done in connection with wood frame building construction including the placement of roof trusses, sheathing roofs, installation of exterior building siding, and the installation of exterior doors and door frames. This classification also includes the installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract on a wood frame building. This classification also includes the erection of log home shells at customer's location. The manufacturing of log homes in a permanent yard which includes peeling the logs, notching the logs with chainsaws, and assembly is to be reported in classification 1003-06.

This classification excludes all other phases of wood frame building construction not listed as part of the framing activities above such as, but not limited to, site preparation and excavation (0101); overhead or underground utilities, asphalt work, or concrete work which is to be reported separately in the applicable classification; new landscape work (0301); brick work (0302); stucco work (0303); plumbing work (0306); HVAC work (0307); carpet and tile work (0502); exterior painting (0504); roof work (0507); insulation work (0512); interior finish carpentry - interior doors, cabinets, fixtures or molding (0513); installation of garage doors (0514); installation of sheet metal siding, gutters, and non-structural sheet metal patio covers/carports (0519); interior

painting (0521); electrical work (0601) or wallboard installation, taping or texturing which are to be reported separately in the applicable classifications. For a more thorough description of the activities included and excluded from wood frame building construction, review the Construction Industry Guide.

Special note: Classification 0510 also includes wood frame building alterations or remodel work when the activity involves building new additions. The term "new additions" is defined as adding on to an existing wood frame building (upwards or outwards) in which the use of structural supports and main bearing beams is required. This is distinguishable from classification 0516 - building repair or carpentry work that typically does not require the placement of structural supports or main bearing beams. The purpose of classification 0516 is to build or rebuild with nonstructural or bearing beams, or to replace an existing portion (including existing structural and bearing beams) of a wood frame building for appearances or as a result of deterioration to make it appear new again. Care should be exercised as the terminology to build, rebuild, remodel, construct or reconstruct is irrelevant to assignment of classification which should recognize what the project actually involves.

Guidelines:

Constructing a new wood frame building that never existed - 0510

Altering all or part of an existing wood frame building by adding on new additions - 0510

Remodeling all or part of an existing wood frame building *without* adding on new additions - 0516

Installation of wood or vinyl siding on a new or existing wood frame building - 0510

Constructing a new wood garage that never existed - 0510

Altering all or part of an existing wood garage by adding on new additions - 0510

Remodeling all or part of an existing wood garage without adding on new additions - 0516

Constructing a new wood carport or wood shed that never existed - 0510

Rebuilding an existing wood carport or wood shed (all or part) with or without new additions - 0516

Construction of a new wood deck by the framing contractor when a new wood house is being built - 0510

Constructing or replacing a wood deck on an existing wood house - 0516

Constructing or replacing a wood deck for any type of nonwood building - 0516

Altering the existing interior of a wood frame building by adding exterior additions - 0510

Remodeling the existing interior of a wood frame building without adding exterior additions - 0516

Constructing, altering, or remodeling the interiors of nonwood frame buildings - 0516

Installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract of a wood frame building - 0510.

0510-99 Wood frame building: Construction or alteration, N.O.C. (only to be assigned by the wood framing specialist)

Applies to framing contractors, who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

Special note: Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1002 Classification 1002.

1002-00 Sawmills: Operation and maintenance

Applies to establishments engaged in the operation and maintenance of a sawmill. Sawmills receive raw logs which they usually store temporarily in their yard before cutting them into rough and finished lumber. This classification includes operations such as, but not limited to, loading raw logs onto the conveyor or log slip; sawing logs with a variety of head, cut-off, circular or band saws; grading and sorting lumber; drying green (wet) lumber; and the stacking and storing of lumber. The raw logs are cut into rough lumber, such as cants and blocks, or into finished lumber, such as posts, planks or boards.

This classification excludes all operations conducted in the woods, such as logging or use of a portable sawmill, which is to be reported separately in classification 5001, and establishments engaged *only* in the manufacturing of wood, veneer, veneer products, or lumber remanufacturing which is to be reported separately in the classification applicable to the manufacturing being performed.

1002-08 Shake and shingle mills - automated process

(to be assigned by classifications underwriter)

Applies to establishments operating an automated shake and shingle mill which manufacture shakes, shingles and/or ridge caps using automated processes. For purposes of this classification, automated processes refers to shake and shingle mills equipped with automatic feeders on all saws, adjustable packing and cutting stations, and fully automatic systems for conveying material to work stations. All equipment must be equipped with automatic shut off switches. Within a shingle mill the operation of a trim saw must be performed by an individual as a separate function from that of the shingle saw operator (shingle sawyer is not to perform both functions). Shake splitters must be equipped with a gauge control mechanism which permits the operator to automatically set the thickness of the cut. Conveyor systems must have dual controls to allow the deck man and sawyer the ability to control incoming material to the work station.

Block mills must be equipped with an automated pallet dump to eliminate the handling of material to the sawyer work station or an adjustable scissor lift adjacent to the shingle saw or shake splitter. Blocked wood purchased by mills

must be contained in pallets prior to entering the mill yard or premises. Log mills must be equipped with a fully mechanized log slip (used to move logs into the deck area), log levelers, stabilizers, and lifters must be present in the deck area, automatic deck cut-off saw, live deck for moving material from the deck to the splitting area and overhead mounted splitters. Trim saws, also referred to as clipper saws, must be equipped with a laser guide or quartz light. This lighting reveals to the operator where its saw blade is in relationship to the material being processed.

For purposes of this classification, the following terms or words shall be given the meanings below:

Automatic deck or cut-off saw: A large saw, usually circular, used to trim logs to a specified length (rounds) before they enter a manufacturing plant.

Clipper saw: A machine used to make shingle edges parallel.

Shingle: Roofing or siding material having sawn faces and backs, are of a standard thickness at the butt end and tapered finish at the other end.

Shake: Roofing or siding material having at least one surface with a natural grain textured split surface.

Live deck: A chain driven platform located in the same proximity as the deck saw and is used to convey cut rounds from the cutting area to the splitting area.

Log stabilizer: A levered device adjacent to the deck saw used to hold the log steady while it is being cut.

Log slip: A chain driven conveyor used to move logs into the deck area.

Laser or quartz guide light: An overhead mounted light above a saw that illuminates that portion of a work surface where the saw blade will pass or make a cut.

Log leveler: A levered device adjacent to the deck saw used to level a log automatically.

Overhead splitter: A ceiling mounted hydraulic, air, or electrically operated apparatus with wedge shaped end that is used to split log rounds into block wood when activated by the splitterman.

Shingle saw: A machine used to make shingles.

Shake splitter: A machine used to split blocks into shake blanks.

Shake saw: A machine used to saw shake blanks into a finished wedged shaped product.

This classification excludes all operations conducted in the woods, such as logging or the cutting and splitting of shake or shingle bolts, which are to be reported separately in classification 5001.

Special notes: Shake and shingle mills not meeting all the conditions as set forth above shall be reported separately in classification 1005 "shake and shingle mills, N.O.C."

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1003 Classification 1003.

1003-02 Dry kiln operations

Applies to establishments engaged in kiln drying of wood as a service for customers in the wood products industry. They may also purchase and dry wood themselves for later sale to a wood product manufacturer. Operations con-

templated by this classification include, but are not limited to, receiving green lumber or logs, peeling (mechanized or manual), any incidental machining or turning, layering on a trolley (with spacers in between to allow for air circulation), drying in the heated kiln, and the incidental application of preservative, fire retardant, or insecticide treatments, storing, and delivery. Preservatives may be oil or water based and may be applied through a heated, pressurized vacuum process in an autoclave, by surface application (spraying, brushing, dipping) or by soaking in tanks. Machinery and equipment includes, but is not limited to, log handling and trimming machinery, kilns, boilers that heat the kilns, autoclaves, storage tanks, trolley cars, fork lifts, hand tools and delivery trucks.

This classification excludes dry kiln operations that are part of a wood, veneer or lumber product manufacturing or remanufacturing operation which are to be reported separately in the classification applicable for the operation being performed; all operations conducted in the woods, such as the felling of timber, which are to be reported separately in the applicable logging classification, and work conducted away from the shop or yard, except delivery, which is to be reported separately in the classification applicable for the work being performed.

1003-03 Creosote works; pile and pole treating

Applies to establishments engaged in treating wood poles with creosote or other chemicals to inhibit deterioration. Poles produced by this type of business are intended for use as utility line poles, supports for bridges and trestles, or piles to be driven into the ground as part of the support for a pier or other structure. Operations contemplated by this classification include, but are not limited to, receiving logs, storing, seasoning (either by air or kiln drying), peeling (mechanized or manual), any incidental machining and turning (which may include cutting material into ties or cross arms), the application of creosote or other chemical preservative, and pick up and delivery. Preservative may be applied to seasoned wood through a heated, pressurized vacuum process in an autoclave, by surface application (spraying, brushing, dipping), or soaking in tanks. Machinery and equipment includes, but is not limited to, log handling/trimming/cutting machinery, kilns, boilers that heat the kiln, autoclaves, storage tanks, trolley cars for use in the kiln, fork lifts, hand tools, and trucks.

This classification excludes all operations conducted in the woods, such as the felling of timber, which are to be reported separately in the applicable logging classification, and work conducted away from the shop or yard, except delivery, which is to be reported separately in the classification applicable for the work being performed.

1003-04 Pole yards

Applies to establishments engaged in producing wood poles to a customer's specifications or for their own resale. These poles are intended for a variety of uses and are finished to varying requirements. Work contemplated by this classification includes, but is not limited to, receiving logs, storing, seasoning (either by air or kiln drying), peeling (mechanized or manual), incidental machining or turning (which may include cutting some material into cross arms, cutting and

boring), the application of creosote or other chemical preservative, and pick up and delivery. Preservative may be applied to seasoned wood through a heated, pressurized vacuum process in an autoclave, by surface application (spraying, brushing, dipping), or soaking in tanks. Machinery and equipment includes, but is not limited to, log handling/trimming/cutting machinery, kilns, boilers that heat the kiln, autoclaves, storage tanks, trolley cars for use in the kiln, fork lifts, hand tools, and trucks.

This classification excludes all operations conducted in the woods, such as the felling of timber, which are to be reported separately in the applicable logging classification, and work conducted away from the shop or yard, except delivery, which is to be reported separately in the classification applicable for the work being performed.

1003-05 Masts and spars yards

Applies to establishments engaged in producing wood masts and spars. Masts and spars are the main and secondary supports, respectively, for sails and running rigging on sailing vessels. These businesses may also produce poles for other uses which may need to be more precisely shaped and finished than those produced in 1003-04. Work contemplated by this classification includes, but is not limited to, receiving logs, storing, seasoning (either by air or kiln drying), peeling the logs (mechanized or manual), machining and turning to size (which may include cutting and boring holes), application of chemical preservative, sanding if necessary, and pick up and delivery. The application of wood finish is also included when performed by employees of an employer having operations subject to this classification. Preservative may be applied to seasoned wood through a heated, pressurized vacuum process in an autoclave, by surface application (spraying, brushing, dipping), or soaking in tanks. Machinery and equipment includes, but is not limited to, log handling/trimming/cutting machinery, kilns, boilers that heat the kiln, autoclaves, storage tanks, trolley cars for use in the kiln, fork lifts, wood finishing equipment, hand tools, and trucks. This classification includes the production of finished logs that will be used in the manufacture of log houses or cabins.

This classification excludes all operations conducted in the woods, such as the felling of timber, which are to be reported separately in the applicable logging classification, and work conducted away from the shop or yard, except delivery, which is to be reported separately in the classification applicable for the work being performed.

1003-06 Log home manufacturing

Applies to establishments that receive logs either peeled or unpeeled. Work contemplated by this classification includes the use of hand tools such as, but not limited to, planers, grinders, skids, drawn knives, and slicks to peel or bring back the new appearance of the logs. Chainsaws and chisels are used to notch out the logs to assemble them together. Equipment such as loaders, forklifts, or cranes are used to maneuver the logs around the yard or to help in the assembly of the log home. Once the shell is assembled, it is numbered. The shell is then unassembled and is shipped to the customer's site to be erected. The erection of the log home shell at the customer's site is to be reported in 0510-00. This classification excludes all other phases of construction

which will be reported in the applicable construction classifications.

Log home manufacturing performed in a sawmill environment using dimensional lumber is to be reported in 2903-12.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1101 Classification 1101.

1101-04 Automobile delivery or repossessing

Applies to establishments engaged in delivering or repossessing individual automobiles for others. Generally, a client will contact the service company and arrange for a car to be delivered to a specific destination or request that a car of which they (client) is the legal owner, be repossessed and delivered to a specific location. In either case, a driver, not a motorized transportation service, does the delivery. Duties of employees subject to this classification are generally limited to unlocking vehicles and driving. It is common on long distance deliveries for the service company to use more than one driver. This classification also applies to drivers of sound trucks.

This classification excludes operation of tractor/trailer combinations to transport vehicles which is to be reported separately in classification 1102 ~~((€))~~ and the use of a tow truck which is to be reported separately in classification 1109~~(, depending on the method of transporting))~~.

1101-06 Delivery by retail and wholesale stores and distributors, N.O.C.

Applies to employees of retail and wholesale stores engaged in inter-store delivery, customer merchandise delivery when excluded from the store classification, and delivery not covered by another classification (N.O.C.). Employees subject to this classification are generally involved in loading and unloading delivery vans or trucks and driving from store to store, or from a store to a customer's location. Drivers may or may not have designated routes or delivery areas. This classification is not applicable to establishments engaged in general trucking services which are to be reported separately in classification 1102. Classification 1101 is distinguishable from delivery operations reported in classification 1102 in that businesses covered by classification 1102 generally do not own the merchandise they are transporting.

1101-09 Parcel delivery companies for delivery of small parcels

Applies to establishments engaged in the delivery of small parcels for others. Establishments subject to this classification may offer overnight express services, but usually do not deliver packages that exceed 150 pounds. Work contemplated by this classification includes, but is not limited to, driving, loading and unloading delivery vehicles. This classification also applies to contract mail delivery route drivers and contract hauling of mail between post offices.

This classification excludes the delivery of bulk freight such as that delivered by trucking companies which are to be reported separately in classification 1102.

1101-14 News agents or distributors of magazines, periodicals and telephone books - no retail dealers

Applies to establishments engaged in the distribution of newspapers, periodicals, and telephone books. Work contemplated by this classification includes, but is not limited to, driving, loading and unloading the vehicles, stocking shelves, and removing old periodicals from shelves.

1101-17 Driver delivery sales, N.O.C.

Applies to establishments engaged in route sales of a wide variety of merchandise not covered by another classification (N.O.C.), including, but not limited to, hand tools, automotive supply, and household items. Sales personnel deliver products, show samples and solicit further orders. They may also call on new customers along their route. The classification also applies to establishments or employees known as merchandisers who deliver products to their customer's place of business then perform related merchandising functions such as taking inventory of goods on hand, restocking, reordering, removing outdated or damaged merchandise from shelves or the premises, and/or assembling temporary displays which are usually made of lightweight material such as cardboard or plastic and used for promotional or seasonal goods. These merchandisers often deal in products such as, but not limited to, greeting cards, over-the-counter medications, and grooming products.

This classification excludes employees of establishments who provide merchandising services, but who do not deliver products to the customer's place of business, who may be reported separately in classification 0607; and establishments engaged in the set up or removal of advertising or merchandise displays that involve more than incidental assembly of seasonal or promotional exhibits which are to be reported separately in classification 0607.

Special note: The distinguishing factor between merchandising employees who are to be reported in classification 1101-17 and those who may be reported in classification 0607 is the delivery of products to the customer's place of business. Any employee who delivers merchandise to the customer's place of business is to be reported in classification 1101.

1101-19 Route food services

Applies to establishments engaged in route food services where prepackaged, prepared food is sold, or where food may be prepared in the mobile unit for immediate sale by employees of the route food service. Duties include, but are not limited to, driving, food preparation, loading and unloading the vehicle, and cashiering. Typical route food services include, but are not limited to, traveling coaches that sell beverages and prepared pastries or snack items at various locations during a given work day, ice cream wagons, refrigerated trucks that sell specialty prepackaged foods to route customers, or mobile "short-order" food services that sell fast foods at special events or at locations where hot food may not be available.

This classification excludes food preparation at a fixed location for the route food vehicles which may be reported separately in classification 3905 or as applicable, food vendors operating from a push cart or mobile stand and food vendors who operate from a truck or van but who do not move

from place to place throughout the day who are to be reported separately in classification 3905.

1101-20 Computer tape or accounting records delivery service

Applies to establishments engaged in picking up and delivering computer tape, accounting records, or similar financial records to or from storage centers to customer locations. Delivery drivers in this classification often work in metropolitan areas and drive small cars or bicycles.

1101-21 Errand service

Applies to establishments engaged in providing errand services for others. Types of errands include, but are not limited to, shopping services, delivery of food, beverages or other commodities, and delivery of body fluid samples to laboratories. Vehicles used by these services are typically small cars or bicycles. This classification also applies to the distribution of sample merchandise by vehicle.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1105 Classification 1105.**1105-00 Septic tank pumping**

Applies to establishments engaged in septic tank pumping services. Operations contemplated by this classification include driving, locating the septic tank and digging as necessary to uncover it, connecting the pumping hose to the septic tank, pumping out the sludge, and disposing of the waste products.

This classification excludes installation and repair of septic tanks or systems which are to be reported separately in classification 0108, and cleaning of sewage treatment tanks which is to be reported separately in classification 0504.

1105-01 Street sweeping; parking lot sweeping; dust control; and portable chemical toilet servicing

Applies to establishments that perform street sweeping and parking lot sweeping services for others. Trucks used for sweeping are equipped with rotating or nonrotating brushes and vacuum/suction devices. In addition to driving duties, the drivers may adjust/unclog the brushes, and clean the holding tanks contained on the sweeping or pumping vehicle. This classification also includes snow removal by plowing, delivery of portable toilets and the related servicing and disposal of waste products which are recovered by establishments subject to this classification. This classification also includes trucks that spray water on roads and other surfaces for dust control.

1105-02 Vacuum truck services

Applies to establishments engaged in vacuum truck services for others. Services include, but are not limited to, cleaning of duct work, picking up waste oils, lubricants, anti-freeze, bilge water, and similar waste products. Establishments subject to this classification may offer a regular service, one-time or occasional pick-up service. The driver has kits for testing the materials and, if there is a question, a sample is taken to a laboratory for further analysis. If the waste material is acceptable, it is pumped into the tanker truck. The waste material may be consolidated with similar products and

"bulked" in storage tanks, then taken to appropriate treatment or disposal facilities, or it may be taken directly to appropriate facilities. If it is to be "bulked" with other products, it will be filtered as it is pumped into the storage tanks and allowed to sit for a few days for any water to settle to the bottom of the tank and be drained off. Bulked materials may be hauled away by the establishment's own trucks or by common carrier. Establishments subject to this classification may pick up containers of used oil filters and bring them into their plant where they are sorted into crushed and uncrushed filters, and gaskets removed. This activity is included within the scope of this classification if it is an incidental service. This classification includes the related disposal of waste products which are recovered by establishments subject to this classification.

This classification excludes septic tank pumping which is to be reported separately in classification 1105-00.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1108 Classification 1108.

1108-02 Glass tempering

Applies to establishments engaged in glass tempering services for others. Operations contemplated by this classification include glass cutting, bending, grinding, beveling, and silvering. Tools and equipment include metal and wood cutting tools and machinery, grinders, sanders, drills, saws, knives, suction cups, putty, caulking, cleaning solvents, forklifts, packing materials, delivery and service vehicles and tempering ovens. The process of glass tempering consists of taking auto or sheet glass which has been purchased from a glass manufacturer or distributor and placing it in a tempering oven. The oven heat realigns the molecular structure of the glass creating added strength, however, the appearance of the glass remains unchanged. This classification includes the sale of accessories for flat glass such as sealants, screening, aluminum frames for storm windows and doors, mirror backings, frames and glass cleaners.

This classification excludes establishments engaged in the installation of glass, mirrors, aluminum or wood window sashes or similar products away from the shop which are to be reported separately in classification 0511; establishments engaged in the manufacture of glass which is to be reported separately in classification 3503; merchants who specialize in selling or installing auto glass which is to be reported separately in classification 1108-04; glass merchants engaged exclusively in flat glass sales which are to be reported separately in classification 1108-03; and combined auto/flat glass merchants with no tempering which are to be reported separately in classification 1108-05.

1108-03 Flat glass merchants - no tempering

Applies to establishments engaged in receiving, storing and selling all types of fabricated glass and plexiglas. Glass products include, but are not limited to, window glass, plate glass, safety glass for automobiles, and mirrors. Work contemplated by this classification includes cutting of glass to customers specified dimensions, beveling, buffing, grinding, polishing, silvering of plate glass, and the installation of glass into frames within the shop or adjacent yard. Some dealers

may specialize in cutting, selling or installing fabricated flat glass or they may also sell and install plate, laminated, window, cathedral, stained, bullet proof, opalescent flat, picture, skylight and tempered glass. Most glass dealers will cut glass to order. Tools and equipment include metal and wood cutting tools and machinery, grinders, sanders, drills, saws, knives, suction cups, putty, caulking, cleaning solvents, forklifts, packing materials, delivery and service vehicles. This classification includes the sale of accessories for flat glass such as sealants, screening, aluminum frames for storm windows and doors, mirror backings, frames and glass cleaners.

This classification excludes establishments engaged in the installation of glass, mirrors, aluminum or wood window sashes or similar products away from the shop which are to be reported separately in classification 0511; manufacturing of glass which is to be reported separately in classification 3503; glass merchants who perform glass tempering which are to be reported separately in classification 1108-02; and merchants who specialize in selling or installing auto glass which are to be reported separately in classification 1108-04.

1108-04 Auto glass merchants

Applies to establishments engaged in selling and installing automobile glass in vehicles. In addition to selling and installing new or replacement auto glass, merchants typically repair auto windshield cracks, scratches, bullseyes and breaks. Tools and equipment include metal and wood cutting tools, grinders, sanders, drills, saws, knives, windshield sticks, suction cups, putty, caulking, cleaning solvents, delivery and service vehicles. Solar tinting of auto glass with film to reduce heat and glare may also be performed, as well as selling and installing sun roofs. Auto glass merchants may offer 24-hour emergency service or pickup and delivery. Installation of auto glass, truck glass or boat tops performed in or away from the shop is included within the scope of this classification.

This classification excludes establishments engaged in the manufacturing of glass which are to be reported separately in classification 3503; tinting or the application of tinted plastic film to auto glass by an auto detailer which is to be reported separately in classification 3406; repairing auto windshield cracks, bullseyes and chips by an auto detailer which is to be reported in 3406; glass merchants who perform glass tempering which are to be reported separately in classification 1108-02; glass merchants exclusively dealing in flat glass which are to be reported in classification 1108-03; and combined auto/flat glass merchants with no tempering which are to be reported in classification 1108-05.

1108-05 Combined auto and flat glass merchants - no tempering

Applies to establishments engaged in receiving, storing and selling all types of fabricated glass and plexiglas as window glass, plate glass, safety glass for automobiles, mirrors and other types of glass at a permanent shop location or adjacent yard. Work contemplated by this classification includes cutting of glass to customers' specified dimensions, beveling, buffing, grinding, polishing, silvering of plate glass and the installation of glass into frames. Tools and equipment include metal and wood cutting tools and machinery, grinders, sanders, drills, saws, knives, suction cups, windshield sticks,

putty, caulking, cleaning solvents, forklifts, packing materials, and delivery and service vehicles. A glass merchant performing the installation of glass in automobiles is also included within the scope of this classification; as are related services such as, but not limited to, repair of auto windshield cracks, scratches, bullseyes and breaks; in vehicle tinting of auto glass to reduce heat and glare; and installing sun roofs. Other dealers may specialize in cutting, selling or installing fabricated flat glass or they may also sell and install plate, laminated, window, cathedral, stained, bullet proof, opalescent flat, picture, skylight and tempered glass. Included within the scope of this classification is the sale of accessories for flat glass such as sealants, screening, aluminum frames for storm windows and doors, mirror backings, frames and glass cleaners.

This classification excludes establishments engaged in the installation of glass, aluminum or wood window sashes or similar products away from the shop which are to be reported separately in classification 0511; manufacturing of glass which is to be reported separately in classification 3503; tinting or the application of tinted plastic film to auto glass by an auto detailer which is to be reported separately in classification 3406; repairing auto windshield cracks, bullseyes and chips by an auto detailer which is to be reported in 3406; glass merchants who perform glass tempering which are to be reported separately in classification 1108-02; and flat glass merchants who do not sell or install auto glass which are to be reported separately in classification 1108-03.

1108-06 Glass frosting, etching, beveling or grinding

Applies to establishments engaged in shaping and finishing solid glass by cutting, frosting, etching, beveling, grinding, sandblasting, carving, glue chipping, decorating or grooving. Custom items manufactured in this classification include, but are not limited to, video game tops, glass signs, glass used in the assembly of electrical appliances such as microwave ovens, electronically controlled cabinets and display panels, and mirrors of all sizes. Machinery includes diamond or glass cutting saws, diamond or glass grinding wheels and discs, drills, polishing laps, etching tools and other hand tools. In the manufacture of mirrors, metallic solutions (usually silver), shellacs or varnishes, paints, and plate glass are received from outside sources. The glass is cut to size, ground, smoothed, and the edges may be beveled. Hole drilling, chemical etching, drying, buffing and polishing may be performed. Reflective surfaces are generally produced by pouring or spraying metallic solutions over prepared glass. Heavier coats are obtained by successive applications of the plating solution. After applying the plating solution, the mirrors are sprayed or hand brushed with shellac or varnish, then with paint. Frames, handles or similar finishings may be attached. Production manufacturing of insulated glass by sealing together two or more sheets of glass with an air space between them is also included when performed by employees of an employer subject to this classification.

This classification excludes the mining, digging or quarrying of raw materials which is to be reported separately in the applicable classification; glass merchants who do incidental grinding, beveling, silvering and cutting of glass who are to be reported separately in the classification applicable to the type of glass they specialize in; establishments manufac-

turing optical goods or telescopes, or perform precision grinding of blank or rough lenses which are to be reported separately in classification 6604; and establishments engaged in manufacturing stained or leaded glassware, or in melting or blowing glass which are to be reported separately in classification 3503.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1407 Classification 1407.

1407-00 Bus companies

Applies to establishments engaged in providing transportation services such as, but not limited to, charter and tour bus, contract school bus, shuttle van, and nonmunicipal, scheduled bus systems. Work contemplated by this classification includes operation of the vehicle and related loading/unloading duties, cleaning, maintenance and ordinary repair of all facilities, equipment, and vehicles, all bus terminal employment except for office personnel. Ticket sellers and dispatchers may be reported separately in classification 4904 provided that they do not handle baggage and that all of the conditions of the standard exception general reporting rules have been met.

This classification excludes: Municipal transit and bus service provided by a county or taxing district which is to be reported separately in classification 1501; municipal transit and bus service provided by a city or town which is to be reported separately in classification 0803; taxicab companies which are to be reported separately in classification 1401; cabulance and paratransit companies which are to be reported separately in classification 1404; and drivers employed by a limousine company who are to be reported separately in classification 6301.

Special note: Establishments subject to this classification are to report actual hours worked for each driver. However, the hours are to be capped at 520 hours per driver per quarter.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1501 Classification 1501.

1501-00 Counties and taxing districts, N.O.C. - all other employees

Applies to employees of counties and taxing districts, not covered by another classification (N.O.C.), who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators including transit bus drivers. This classification includes administrative personnel such as engineers, safety inspectors, and biologists who have field exposure, and internal inventory and supply clerks. For purposes of this classification, field exposure is defined as any exposure other than the normal travel to or from a work assignment.

This classification excludes electric light and power public utility districts which are to be reported separately in classification 1301; privately owned and operated bus or transit

systems which are to be reported separately in classification 1407; water distribution or purification system public utility districts which are to be reported separately in classification 1507; irrigation system public utility districts which are to be reported separately in classification 1507; port districts which are to be reported separately in classification 4201; school districts, library districts or museum districts which are to be reported separately in classifications 6103 or 6104; hospital districts which are to be reported separately in classification 6105; fire fighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classification 6905 and 6906, as appropriate; clerical office and administrative employees who are to be reported separately in classification 5306, and volunteers who are to be reported separately in classifications 6901 or 6906, as appropriate.

1501-01 Housing authorities, N.O.C. - all other employees

Applies to employees of housing authorities, not covered by another classification, who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators. This classification includes all functional operations of a housing authority such as inspection, maintenance and repairs, including minor structural repairs, janitorial service, and building and grounds maintenance. Also included in this classification are meter readers, security personnel, other than those with law enforcement powers, administrative personnel such as engineers and safety inspectors who have field exposure, and internal inventory and supply clerks. For purposes of this classification, housing authorities are defined as nonprofit, public and political entities which serve the needs of a specific city, county or Indian tribe. The nature and objectives of some of the projects undertaken by housing authorities include providing decent, safe and sanitary living accommodations for low income persons, or providing group homes or halfway houses to serve developmentally or otherwise disabled persons or juveniles released from correctional facilities. A housing authority has the power to prepare, carry out, lease and operate housing facilities; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project; to sell or rent dwellings forming part of the project to or for persons of low income; to acquire, lease, rent or sell or otherwise dispose of any commercial space located in buildings or structures containing a housing project; to arrange or contract for the furnishing of the units; and to investigate into the means and methods of improving such conditions where there is a shortage of suitable, safe and sanitary dwelling accommodations for persons of low income.

This classification excludes new construction or major alteration activities which are to be reported separately in the appropriate construction classifications; clerical office and administrative employees who are to be reported separately in classification 5306; security personnel with law enforcement powers who are to be reported separately in classification 6905; and volunteers who are to be reported separately in classifications 6901 or 6906, as appropriate.

1501-08 Native American tribal councils - all other employees

Applies to employees of Native American tribal councils who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators. This classification includes administrative personnel such as engineers, safety inspectors, and biologists who have field exposure, and internal inventory and supply clerks of the tribal council. For purposes of this classification, field exposure is defined as any exposure other than the normal travel to and from a work assignment.

This classification excludes electric light and power public utility districts which are to be reported separately in classification 1301; water distribution or purification system public utility districts which are to be reported separately in classification 1507; irrigation system public utility districts which are to be reported separately in classification 1507; school districts, library districts or museum districts which are to be reported separately in classifications 6103 or 6104; hospital districts which are to be reported separately in classification 6105; fire fighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classifications 6905 and 6906; new construction or reconstruction activities which are to be reported separately in the appropriate construction classification; clerical office and administrative employees who are to be reported separately in classification 5306.

Special notes: Housing authorities operating under the name of, and for the benefit of, a particular tribe are not exempt from mandatory coverage. These housing authorities are federally funded and are not owned or controlled by a tribe.

Only those tribal operations which are also provided by county governments are subject to classification 1501. The following activities, such as but not limited to, visiting nurses and home health care, grounds keepers, building maintenance, park maintenance, road maintenance, and garbage and sewer works, are considered to be normal operations to be included in this classification. All other tribal council operations which are not normally performed by a county government shall be assigned the appropriate classification for the activities being performed. The following operations, such as but not limited to, meals on wheels, bingo parlors, casinos, liquor stores, tobacco stores, grocery stores, food banks, gift shops, restaurants, motels/hotels, Head Start programs, fish/shellfish hatcheries, logging, and tree planting/reforestation are outside the scope of classification 1501 and are to be reported separately in the applicable classifications.

1501-09 Military base maintenance, N.O.C.

Applies to establishments, not covered by another classification (N.O.C.), engaged in providing all support operations and services on a military base on a contract basis. Such services include, but are not limited to, data processing, photography, mail delivery (on post and to other military facilities), hotel/motel services, mess halls, recreational facilities, grounds and building maintenance, vehicle maintenance, and may also include the maintenance of such facilities as water works, sewer treatment plants and roads.

This classification excludes new construction or construction repair projects which are to be reported separately in the applicable construction classification for the work being performed; contracts for specific activities on a military base such as, but not limited to, building maintenance, club or mess hall operations, or vehicle maintenance, which are to be reported separately in the applicable classification for the work being performed; firefighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classification 6905; and clerical office and administrative employees who are to be reported separately in classification 5306.

Special note: Classification 1501-09 is to be assigned to an establishment only when *all* support services on a military base are being provided by the contractor. Care should be taken when assigning classification 1501-09 to firms whose military support services include loading, unloading, repair or construction of vessels, or the repair of buildings or structures used for such activities as that firm may be subject to federal maritime law.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-2903 Classification 2903.

2903-00 Wood chip, hog fuel, bark, bark flour, fire log and lath: Manufacturing

Applies to establishments engaged in the production of products such as, but not limited to, wood chips, hog fuel, bark, bark flour, fire logs, kindling, excelsior, particleboard, and similar wood by-products.

Wood chips are small pieces of wood, generally uniform in size and larger and coarser than sawdust, commonly used to make pulp, particleboard, stuffing for products such as animal bedding, and as smoker/barbecue fuel;

Hog fuel is made by grinding waste wood in a hog machine, is larger and coarser than wood chips, and is used to fire boilers or furnaces, often at the mill or plant at which the fuel was processed;

Bark is the outermost covering of a tree which is chopped into pieces of varying sizes, and is commonly used for landscaping;

Bark flour is finely ground bark used as a filler or extender in adhesives;

Fire logs are made by forming sawdust into a log about 15 inches long and are used for fuel;

Lath is a narrow strip of wood commonly used to support shingle, slate or tile roofing, and as a fencing material;

Excelsior is the curled shreds of wood used as a packing and stuffing material, or as a raw material in making various board products;

Particleboard is a panel made from discrete particles of wood which are mixed with resins and formed into a solid board under heat and pressure.

The degree of manual labor required to make these products varies depending upon the size of the operation and sophistication of the equipment. Raw materials include, but are not limited to, logs, mill waste, bark, sawdust, or chips. Machinery includes, but is not limited to, rip saws, cut-off saws, loaders, debarkers, hog chippers, hammer mills, con-

veyors, sorting screens, and storage bunkers. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. The operation of portable chipping or debarking mills is included in this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

2903-06 Wood furniture stock: Manufacturing

Applies to establishments engaged in the manufacture of wood furniture stock such as, but not limited to, tabletops, table or chair legs, chair backs or seats, panels for beds, turning squares (bolts of wood which are shaped on lathes into furniture legs) and furniture squares (standard sized - usually 2" x 2" - pieces of wood used in constructing frames of upholstered furniture). Stock may be mass produced or custom. Raw material includes dimensional lumber from hardwoods such as, but not limited to, ash or alder. If the lumber is not presurfaced, it is sanded and/or planed. It is cut to desired width and thickness with a rip saw; and cut to desired length with a cut-off saw. Pieces may be beveled with a table saw, bored with a horizontal boring machine, molded or shaped, and joints formed using a mortise, tenon or jointer. Finished stock is banded and/or palletized and usually shipped unfinished and unassembled to furniture manufacturing plants. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; manufacture of wood furniture and caskets which is to be reported separately in classification 2905; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

2903-08 Wood door, jamb, window, sash, stair, molding and miscellaneous millwork: Manufacturing, prehang-ing or assembly

Applies to establishments engaged in the manufacture, prehanging or assembly of wooden doors, door components, jambs, windows, sashes, stairs, mantels, moldings, turnings, and miscellaneous millwork such as, but not limited to, shutters, door and window grilles, skylights, pillars, wainscot, and similar architectural ornaments. Doors manufactured in this classification may be for residential or commercial use, such as, but not limited to, garage, closet, warehouse, interior and exterior; they may be odd-size or standard, panel, solid, louver, hollow core, sliding, bifold and overhead. Component parts for stairs include, but are not limited to, risers, tread, balusters, hand rails, and newel posts. Fireplace mantels include both the shelf and the complete ornamental facing surrounding the firebox. Moldings include, but are not limited to, picture moldings, chair rails, quarter round, coves, and architectural molding and base. Raw materials include,

but are not limited to, cut stock lumber, plywood, veneer, particleboard, cardboard, plastic laminates, glue, hardware, glass, and metal. Cutting and fitting of glass and metal components for doors and windows is an integral phase of the manufacturing process and is included within the scope of this classification. Machinery includes, but is not limited to, various types of saws (table, panel, rip, cut-off, radial arm, trim, circular, band, jig, and miter), molders, shapers, routers, planers, finger jointers, mortises, tenons, lathes, presses, various types of sanders, drill presses, hand drills, boring machines, pneumatic nail, screw and staple guns, spray guns, chisels, air compressors, glue spreaders, drying ovens, overhead vacuum lifts, conveyor systems, fork lifts, and pallet jacks. Some door manufacturers have "door machines" which route impressions in jambs and blanks for hinge placement, and bores holes in the blank for knobs and locks; some have computerized overhead vacuum lights, electronic gluers, hydraulic lift pits, or electronically controlled saws. Prehanging doors involves boring holes in door blanks for knobs and locks, routing impressions into the blanks and jambs for hinge replacement, mounting hinges, trimming door and jamb replacements to exact size. Finishing the products with stain, paint, oil, or lacquer is included in this classification when done by employees of employers subject to this classification. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops, and fixtures which is to be reported separately in classification 2907; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; the manufacture of metal doors, jambs, windows, and sashes which is to be reported separately in classification 3402; and sawmill operations which are to be reported separately in classification 1002.

Special note: Lumber yards and building materials centers subject to classification 2009 are to be assigned classification 2903-08 in addition to their basic classification if they prehang door blanks.

2903-10 Wood box, shook, pallet, bin: Manufacturing, assembly, or repair

Wood pallet dealer/recycle operations: Including repairs of pallets

Applies to establishments engaged in the manufacture, assembly, or repair of wood pallets, boxes, bins, shook, shipping crates, and storage containers. A shook is a set of unassembled sawn wood components for assembling a packing box or barrel. Shooks are usually sold to box assembly plants. Pallets may be constructed out of vertical and horizontal runners of dimensional lumber to form a slatted pallet or by attaching three evenly spaced rows of wooden blocks between two sheets of solid plywood to form a lid-block pallet. Usually, the manufacturer subject to this classification picks up pallets, boxes or shipping crates from the customer, brings them to the plant for repair, reconditioning, or rebuild-

ing, then returns them to the customer. However, the *assembly or repair* of bins is often done at the customer's location, which is still to be reported in classification 2903-10 when performed by employees of the bin manufacturer. Raw materials include, but are not limited to, dimensional lumber, plywood, nails, staples, screws, glue, and paint. Machinery includes, but is not limited to, a variety of saws (table, rip, radial arms, cut-off, band or trim), planers, molders, drills, boring machines, notchers, nailing machines, pneumatic stapler, screw and nail guns, conveyors, roll cases, sorting tables, pallet jacks, and fork lifts. Incoming lumber is cut to specified lengths, widths, and thicknesses with saws, then planed, bored, tongued, and grooved. Pieces are nailed, stapled or glued together to form finished products. Cut ends of pallets, bins, and boxes may be painted for design or for color identification purposes. Customer's name may be imprinted on the product using stencils and paint or wood burning tools. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes lumber remanufacturing which is to be reported separately in classification 2903-26; and sawmill operations which are to be reported separately in classification 1002. Nonwood pallet/bin dealers are to be reported in the appropriate metal, fiberglass, or plastics classification.

2903-12 Wood products, N.O.C.: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of miscellaneous wood products which are not covered by another classification (N.O.C.), including, but not limited to, ladders, utility pole crossarms, beams, barricades, cable spools, slugs or ends for paper rolls, attic vents, prefabricated wall panels, gazebos, saunas, solariums, lattice panels, mall and park furnishings, playground equipment, docks and floats, parade floats, boat trailer bunks, cattle feeders, tree spreaders, tack strip, exhibit booths, weaving looms, and pottery wheels. Finishing of the product with stains or other lacquers is included in this classification when done by employees of employers subject to this classification. Raw materials include, but are not limited to, dimensional lumber, plywood, particleboard, lath, logs, glue, staples, screws, nails, stains, paints, oils, and lacquers. Operations require substantial amounts of machine work, as well as hand assembly. Machinery includes, but is not limited to, saws (table, panel, cut-off, band, jig, miter, or chain), sanders, planers, routers, shapers, molders, jointers, drill presses, boring machines, hydraulic presses, pneumatic nail, screw and staple guns. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification also includes log home manufacturers who use a sawmill type operation using dimensional lumber to construct the shell of the home. Log home manufacturers constructing log home shells in a permanent yard using the traditional method of peeling the logs, using chainsaws to notch logs, and assembling the logs together, are to be reported in classification 1003-06.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of wood household and sporting goods which is to be reported separately in classification 2909; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops and fixtures which is to be reported separately in classification 2907; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

2903-13 Veneer products: Manufacturing

Applies to establishments engaged in the manufacture of veneer products by laminating rough veneer to plywood or particleboard and applying plastic or polyester overlays. Laminated veneer sheets are generally sold to other manufacturers and used in the construction of items such as, but not limited to, cabinets, countertops, furniture, wall board, flooring, and shelving. Veneer products generally require no pre-finishing with paint, stain or lacquer. Raw materials include, but are not limited to, plywood, particleboard, polyester, paper, polyethylene, fiberglass, plastic laminates and glue. To make veneer products, sheets of rough veneer are individually fed through glue spreader machines which apply glue to both sides. Veneer sheets may be laminated to other veneer or to plywood or particleboard, cut to size with saws, then plastic or polyester overlays applied. Laminated sheets are fed through either hydraulic cold or hot presses to be bonded and cured. More sophisticated presses automatically feed the sheets through, and shear the laminated panels to standard 4' x 8' or 4' x 10' dimensions, or to specified lengths and widths for custom orders. Forklifts are used to move materials. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of household and sporting goods wooden ware which is to be reported separately in classification 2909; the manufacture of wood products not covered by another classification (N.O.C.) which is to be reported separately in classification 2903-12; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops and fixtures which is to be reported separately in classification 2907; the manufacture of rough veneer which is to be reported separately in classification 2904-00; lumber remanufacturing which is to be reported separately in classification 2903-26; and sawmill operations which are to be reported separately in classification 1002.

2903-20 Wood sign: Manufacturing

Applies to establishments engaged in the manufacture of interior or exterior signs made of wood or wood products. Raw materials include, but are not limited to, dimensional lumber, plywood, molding, acrylic, paint, stain, lacquer and hardware. When additional sizing is required, saws, such as

table, panel, cut-off, or radial arm, are used to cut material to desired dimensions. Pieces may be further sized, shaped, and smoothed with routers, saws, planers, or sanders. Stain, paint, or other finishes may be applied as background colors, borders or designs, with pneumatic spray guns, airbrushes, or by hand. Lettering or designs can be painted directly on the sign, cut from separate stock and glued or screwed on, or carved, routed or sandblasted. Computer-cut vinyl lettering may also be applied. Sign painting and lettering is included in this classification when done by employees of the sign manufacturer. Hand drills or drill presses are used to mount wood lettering or designs, bore holes and attach hardware used in the subsequent installation of the sign. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes the installation or removal of signs outside of buildings which is to be reported separately in classification 0403; the installation or removal of signs inside of buildings which is to be reported separately in classification 0513; sign painting or lettering on the inside of buildings which is to be reported separately in classification 4109; establishments that paint on or apply lettering to sign "backings" that are manufactured by others which is to be reported separately in classification 4109; the manufacture of metal or plastic signs which is to be reported separately in the classification applicable to the manufacturing process; and sawmill operations which are to be reported separately in classification 1002.

Special note: The majority of sign manufacturers also install their signs. Installation and removal of signs is to be reported separately.

2903-21 Wood truss: Manufacturing

Applies to establishments engaged in the manufacture of structural roof trusses, and/or ceiling and floor joists from wood or wood products. These products usually do not require a high degree of finishing work. Raw materials include, but are not limited to, dimensional lumber (usually 2" x 4", 2" x 6", and 2" x 8", which is kiln dried, machine stressed, and presurfaced), plywood, metal gussets, and hardware. Dimensional lumber is cut with gang, table, resaw, or radial arm saws. Cut stock is placed in a hydraulic jig assembly which holds the unassembled components in the properly aligned configuration. Pneumatic nailers are used to embed the nail clips which connect each joint of the truss. A gantry, which is an overhead crane traveling along a bridge-like frame, is used to relocate the truss along the assembly line. The assembled truss is placed in a stationary or moveable press which attaches reinforcing triangular shaped metal plates called gussets at each joint or angle. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all installation activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of door jambs, windows, sashes, stairs, molding and miscellaneous millwork which is to be reported separately in classification 2903-08; lumber remanufacturing which is to be reported separately in classification

2903-26; and sawmill operations which are to be reported separately in classification 1002.

Special note: Truss manufacturers, whose primary customers are building contractors and building supply dealers, usually deliver their product. Delivery to the construction site often entails placing trusses onto the roof top, using boom lifts mounted on the delivery truck, which is included in this classification when performed by employees of employers subject to this classification.

2903-26 Lumber: Remanufacturing

Applies to establishments engaged in lumber remanufacturing, which is the process of converting cants, plywood, or lumber into a more specialized or higher grade product. Cants are large slabs of wood, usually having one or more rounded edges, which have been cut from logs. The incoming stock is generally green, rough-cut, and may be owned by the customer or by the remanufacturer. Machinery includes, but is not limited to, a variety of saws, (chop, resaw, trim, rip, table, radial arm, and cut-off), planers, surfacers, sanders, molders, groovers, finger jointers, tenoners, gluers, kiln dryers, fork lifts, and trolley cars. Stock is kiln dried, resawed, planed, grooved, or otherwise treated, according to customer specification if the customer owns it, or to standard cuts if it is for resale. Remanufacturers sell lumber to construction contractors or manufacturers that use it in the construction of products such as, but not limited to, paneling, countertops, framing studs, siding, decking, fencing, railroad ties, or molding. Remanufacturers generally do not finish the material with stain, paint, or lacquer. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of roof trusses and ceiling and floor joints which is to be reported separately in classification 2903-21; veneer manufacturing which is to be reported separately in classification 2904; establishments that exclusively kiln dry and/or treat lumber with preservatives, fire retardants, or insecticides, and that do not perform any remanufacturing operations which are to be reported separately in classification 1003; and sawmill operations which are to be reported separately in classification 1002.

2903-27 Ridge cap and/or shim: Manufacturing

Applies to establishments engaged in the production of shims and ridge caps. Shims are thin wedges of wood used for filling spaces or leveling. Ridge caps are shingles which are used as a covering for roof peaks. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

Special note: This classification must be assigned only by Classification Services after a field inspection of the business has been performed. If a classification must be assigned prior to the field inspection, assign classification 1005-02.

2903-28 Wood boat: Manufacturing, repair, or refinish

Applies to establishments engaged in manufacturing, repairing, or refinishing wooden boats. Raw materials include, but are not limited to, dimensional lumber, plywood, glue, staples, screws, nails, stains, paints, oils, and lacquers. Machinery includes, but is not limited to, band saws, lathes, drill presses, jointers, planers and sanders. Other than pleasure craft, very few wooden boats have been manufactured over the last fifty years. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes the manufacture of fiberglass boats which is to be reported separately in classification 3511, and the manufacture of metal boats which is to be reported separately in the classification applicable to the materials used and work being performed.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-2908 Classification 2908.

2908-00 Factory built housing: Manufacturing or assembly

Applies to establishments engaged in the assembly line production of factory built (manufactured) housing such as wood prefab and modular homes, ((log home kits,)) mobile homes and prefab cedar homes when manufactured at a shop or adjacent yard. Sections vary in size up to 80 feet long and 28 or more feet wide. Manufactured homes are built on an assembly line with materials such as plywood, rolls of aluminum, steel I beams, insulation, electric wire, particleboard, lumber, pipes, plumbing fixtures, electrical fixtures, appliances, carpeting, paint and hardware. Assembly may be single line or on a side by side line. After the chassis is built, it is placed on a conveyor where workers lay joists and heating and plumbing lines. Floors are then installed, interior walls are raised and cabinets are installed. Preamsembled exterior walls are fastened, the roof is placed, covered, and tie down straps are attached. These homes may be sided with aluminum, vinyl, hardwood fiberboard or natural wood. While the chassis and some other steel parts are welded, the majority of the work is performed with stamping and forming equipment, hand and air tools, joiners, jig clamps, planers, hoists, forklifts and rail conveyors. Other parts may be nailed, riveted, stapled or glued. Furniture and blinds or curtains may then be installed and specialty items such as fireplaces may be added. Units are inspected, then moved to the yard until sold or delivered. Individual work stations may include a mill room, cabinet mill room, sheet metal department or paint and finish departments. Some plants may also have sewing departments where they make curtains, blinds and drapes. This classification includes transporting of the factory built home to the customer's site or a dealer's sales lot when performed by employ-

ees of an employer subject to this classification, but excludes set up which is to be reported separately in classification 0517.

This classification excludes establishments engaged in the manufacture of campers and travel trailers which are to be reported separately in classification 2908-02; establishments engaged exclusively in the manufacture of truck canopies which are to be reported separately in classification 2908-03; establishments engaged in the manufacture of fiberglass canopies which are to be reported separately in classification 3511; and delivery and set up performed by an independent contractor which is to be reported separately in classification 0517.

2908-02 Campers and travel trailers: Manufacturing

Applies to establishments engaged in the manufacture of factory built campers or travel trailers which are generally not more than 35 feet long and 8 feet wide. This process includes cutting steel I-beams, placing them on a jig and welding the pieces together. Hitches, running gear, and side frames are installed. Subflooring is assembled on a jig and fastened with lag bolts to the frame. Shears, stamping equipment, drill presses and jig clamps are used to perform the work as the pieces are moved by conveyor. Interior and exterior metal panels and trim are spray painted in spray booths or dipped in tanks, using enamel and then hardened by using drying ovens or heat lamps. All electrical wiring, flooring, carpets, heating units, and plumbing fixtures are installed with the use of electrical hand tools, pneumatic wrenches, staplers, and air compressors. Partition walls are then nailed in place with nail guns. Side walls are framed up on a jig and placed on the trailer. Afterwards, the ceiling is nailed in place and the insulation and cabinets are put in place. Sheet metal sides are stapled on and the top is installed. All systems are checked and the trailer or camper is delivered to the distributor's lot. The process of manufacturing a camper is similar except there are no frame rails, axles or hitch involved as a camper has no chassis. Campers are mounted on pickup trucks; travel trailers are fitted with a hitch for towing behind a motor vehicle.

This classification excludes establishments engaged in the manufacture of factory built housing which are to be reported separately in classification 2908-00; establishments engaged in the manufacture of truck canopies which are to be reported separately in classification 2908-03; establishments engaged in fiberglass canopy manufacturing which are to be reported separately in classification 3511; and camper and travel trailer rental/sales agencies which are to be reported separately in classification 3411.

2908-03 Wood or metal truck canopy: Manufacturing

Applies to establishments engaged in the manufacture of wood or metal truck canopies. After the framework is assembled, insulation is cut to size and inserted, electrical wiring is strung, exterior aluminum sheeting or "skin" is cut to size and attached, interior paneling and decorative trim is fitted, doors and windows are installed and electrical clearance lights are attached. Machinery includes, but is not limited to, saws, electrical hand tools, metal cutting and welding equipment, shears, stamping equipment, drill presses, jig clamps, spray booths, pneumatic wrenches, staple and nail guns, air compressors and miscellaneous hand tools. Direct sales to retail

consumers or to wholesale dealers by a canopy manufacturer are included in this classification.

This classification excludes dealers who sell and/or install canopies who are reported separately in classification 1106; establishments engaged in the manufacture of campers and travel trailers which are to be reported separately in classification 2908-02; establishments engaged in the manufacture of factory built housing which are to be reported in classification 2908-00; and establishments engaged in the manufacture of fiberglass canopies which are to be reported separately in classification 3511.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-3402 Classification 3402.

3402-00 Air compressor: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of air compressors. This includes air or gas compressors used for paint sprayers, air tools, tire inflation, and general industrial purposes. Operations contemplated include, but are not limited to, welding, machining, general mechanical and electrical work. Machinery and equipment includes, but is not limited to, hand and air tools, welders, punches, shears, and compression equipment. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-01 Printing or bookbinding machinery: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of printing or bookbinding machinery. The outside casings of the machines may be made of plate metal that varies between 1" to 2 1/2" in thickness. The machines used to make the presses and binding machinery may include both Computer Numeric Controlled (CNC) and manual mills and lathes. Other machinery used in the manufacturing process includes, but is not limited to, welders or cutters, grinders, and drill presses. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; and the set up, installation and repair of printing or bookbinding machinery which is to be reported separately in classification 0603.

3402-02 Pump, safe, scale, auto jack, and water meter: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of pumps, safes, scales, auto jacks, and water meters. Materials range from brass screws and rubber washers used to rebuild water meters to plate metal and steel castings used for safe and pump manufacturing. Machinery includes, but is not limited to, hand tools used for repairs, lathes, welders, and pressure testers. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; the installation and repair of safes which is to be reported separately in classification 0607; and the installation of pumps which is to be reported separately in the applicable classification.

3402-03 Shoe or textile machinery: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of shoe machinery or textile machinery. Metal materials used vary in size, shape and dimension. Machinery includes, but is not limited to, drills, mills, lathes, saws, and welders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the installation and repair of shoe or textile machinery which is to be reported separately in classification 0603.

3402-04 Confectioners or food processing machinery: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of food processing or confectioners machinery. Metal materials used vary in size, shape and weight. These establishments often have an assembly line operation and a separate electronic assembly area. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the installation and repair of confectioners and food processing machinery which is to be reported separately in classification 0603.

3402-05 Machine shops, N.O.C.

Applies to establishments engaged in general machine shop operations not covered by another classification (N.O.C.), tool sharpening, and mobile welding shops. Many of the establishments in this classification are "job shops." Size and shape of materials vary with steel and aluminum being the most common. Plastics, light weight aluminum, and alloyed metals are becoming increasingly popular in the manufacture of equipment for some industries. These establishments often have welding shops along with machine shops. Machinery and equipment includes, but is not limited to, mills, lathes, grinders, saws, welding equipment, inspection equipment, and material handling equipment. Machinery is both manual and Computer Numeric Controlled (CNC). This classification also includes "mobile shops" which are used *exclusively* to repair machinery or equipment. A "mobile shop" in this classification usually means a van or pick up pulling a utility trailer equipped with hand tools, specialty tools, air tools, a compressor, and a portable welding unit. The machinery or equipment is usually repaired at the customer's location, however, sometimes the broken part is removed and taken back to the shop for repair.

This classification excludes repairs to buildings and structures which are to be reported separately in the appropriate construction classification, and mechanical repairs which are to be reported separately in the classification applicable to the work being performed.

Special note: The term "job shop" is an industry term that means the shop will produce products to customer specifications.

3402-06 Power saw, lawn and garden equipment, small motor, N.O.C.: Repair

Applies to establishments engaged in repairing small power tools, small motors powered by gas or diesel, outboard marine engines, and lawn and garden equipment not covered by another classification (N.O.C.). The largest piece of equipment repaired in this classification is generally a riding lawn mower. Classification 3402-06 is assigned in conjunction with a store classification for establishments that have a store operation and also repair the type of items they sell. Classification 3402-06 may also be assigned to a manufacturer representative who performs warranty repairs. Tools used in this type of repair are mainly hand and air tools. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the repair of electrical motors which is to be reported separately in classification 5201.

3402-07 Gear: Manufacturing or grinding

Applies to establishments engaged in the manufacture or grinding of gears. Establishments in this classification may also cut key slots and broaches. Establishments that cut stock to manufacture the gear are often not the same ones that perform the final grinding process. Gears may go through two, three, or four different grinding, slotting, and/or keying establishments and then go to another establishment for electroplating or galvanizing before they are ready for sale or use. Precision machine shops may grind gears to the ten thou-

sandths of an inch. Materials used are usually stainless steel, aluminum, or plastic. Machinery includes, but is not limited to, gear shapers, drill presses, mill, hobbers, grinders, some of which might be Computer Numeric Controlled (CNC). This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-08 Elevator: Manufacturing

Applies to establishments engaged in the manufacture of elevators and associated electronic components. Machinery includes, but is not limited to, mills, drills, lathes, saws, and grinders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the installation, service, and repair of elevators which is to be reported separately in classification 0602.

3402-11 Metal goods: Manufacturing and shop services (temporary classification)

Applies temporarily to all establishments assigned any classification within WAC 296-17-580. When the metal goods study is complete, the establishments within this classification will be assigned to the appropriate classifications. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation.

This classification excludes all activities away from the shop or plant.

3402-12 Multimedia blasting

Applies to establishments engaged in multimedia (such as, but not limited to, glass, plastic and sand) blasting operations which strip paint or other coatings from metal or fiberglass. Most of the blasting operations in this classification are done on automobiles, but it also applies to establishments that perform blasting on items such as, but not limited to, barbecue grills, and cast iron pieces. Multimedia blasting processes in this classification are performed in a shop, use less air pressure and media with softer finishes than other blasting operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and sandblasting of buildings or structures which is to be reported separately in classification 0504.

3402-14 Furnace, heater, radiator, wood, propane, or pellet stoves: Manufacturing

Applies to establishments engaged in the manufacture of furnaces, radiators, wood, propane, or pellet burning stoves or similar heating fixtures. Materials include, but are not limited to, metal cast parts, sheet metal, plate metal, aluminum, or stainless steel. Machinery includes, but is not limited to, hand tools, solder guns, punches, lathes, and saws. Establishments in this classification may have separate areas for electronic assembly and/or painting. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of radiators for automobiles or trucks which are to be reported separately in classification 3402-48; and establishments engaged in the manufacture of baseboard heaters which are to be reported separately in classification 3404.

3402-16 Die casting

Applies to establishments engaged in the manufacture of products by die casting. Die casting is a manufacturing process for producing accurately-dimensioned, sharply-defined metal products which are referred to as "die castings." "Dies" are the steel molds used to mass produce the product. The process begins when ingots of various metal alloys are melted in die casting machines. The machine forces the metal into the die under hydraulic or pneumatic pressure. The casting quickly solidifies in the die, and is automatically ejected by the machine, and the cycle starts again. The castings are cleaned by grinding or sanding, which also removes any excess metal "flash." Many die casting manufacturers maintain their own machine shop for making the dies. Die making, when done as a part of die casting operations, is included within the scope of this classification. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; and establishments engaged in making dies for others which are to be reported separately in classification 3402-74.

3402-26 Saw blade: Manufacturing, assembly, or sharpening

Applies to establishments engaged in the manufacture, assembly, or sharpening of saw blades such as, but not limited to, those used in circular saws, band saws, rip saws, key-hole saws, and handsaws such as hacksaws or meat saws. This classification also includes sharpening services for items such as, but not limited to, tools, scissors, and knives. Mate-

rials include, but are not limited to, high tensile steel and carbide tipped blades. Machinery includes, but is not limited to, saws, mills, drills, and hand tools. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the repair or sharpening of chain saws which are to be reported separately in classification 3402-06; and establishments engaged in the manufacture or repair of electrical saws which are to be reported separately in classification 5201.

3402-28 Heat treating metal

Applies to establishments engaged in heat treating metal. The heat treating process may use computer numeric controlled ovens or furnaces. The oven may heat up to 1200 degrees Fahrenheit and a furnace may heat up to 2000 degrees Fahrenheit. The metal(s) is placed on a platform; the platform is hydraulically moved into the first chamber and the door is automatically closed. At this time, the oxygen is burned from the chamber. Then the second chamber door is opened and the metal enters the oven/furnace. Depending upon the specifications, the heat treating process usually takes six to sixteen hours. When the metal is finished in the heating chamber it returns automatically to the first chamber. Then the platform lowers and the metals are dipped into a cooling agent. Once the metals are cooled to room temperature the platform rises, the door opens, and the materials are removed. The process is essentially the same using noncomputer numeric controlled heat treating equipment except that, rather than being hydraulically operated, the machine operators move the metals through the system. Many establishments do not produce a product, but heat treat a variety of products to customer specifications. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-29 Nut, bolt, screw, nail, tack, rivet, eyelet spike, needle, N.O.C.: Manufacturing

Sprinkler head, speedometer, carburetor: Manufacturing or assembly

Applies to establishments engaged in the manufacture of nuts, bolts, screws, nails, tacks, rivets, eyelets, spikes, and needles not covered by another classification (N.O.C.). This classification also applies to establishments engaged in the manufacture or assembly of sprinkler heads, speedometers, or carburetors. Materials include, but are not limited to, steel or iron rods which may be pressed or formed, and small component parts. Machinery includes, but is not limited to, saws, shears, presses, chucks, threading and tapping machines, some of which may be Computer Numeric Controlled (CNC). Establishments may have separate areas for deburring, inspecting, packing and shipping. The carburetor

rebuilding may be performed on vehicles that are driven or towed into the shop, or on carburetors that have been already removed from the vehicles. In either case the repairs are made exclusively with hand and air tools and sometimes a diagnostic scope and a drill press. A speedometer is usually embodied with a mileage recording mechanism. The central feature of the device is a permanent magnet. There are gears, spindles, and a drive shaft present in most speedometers. There is also a unit counting disc and a spiral spring calibrator. Hand tools are used almost exclusively in the repair of this kind of speedometer. Today many speedometers are computer controlled. Basically, if this kind of speedometer is in need of repair, a computer chip(s) is replaced, using hand tools. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of hardware that is not covered under another classification, such as handles, latches, and hinges which are to be reported separately in classification 3404, and the repair of speedometers or carburetors in a vehicle which is to be reported separately in the appropriate vehicle repair classification.

3402-32 Abrasive wheel: Manufacturing

Applies to establishments engaged in the manufacture of abrasive wheels. Manufacturing operations often include a laboratory where carbon and other materials are mixed together to form the abrasive edge of the mainly high tensile steel wheels. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-40 Welding or cutting, N.O.C. (mobile operations limited to repair of equipment and machinery)

Applies to establishments engaged in welding or cutting operations not covered by another classification (N.O.C.) either in the shop or at the customer's site. Steel is the predominant material along with some aluminum alloys. Machinery is predominantly welding equipment, but may include tools such as, but not limited to, grinders, saws, drills, and material handling equipment. This classification also includes "mobile shops" which are used *exclusively* to repair machinery or equipment. A "mobile shop" in this classification usually means a van or pick up pulling a utility trailer equipped with hand tools, specialty tools, air tools, a compressor, and a portable welding unit. The machinery or equipment is usually repaired at the customer's location, sometimes with the use of the customer's equipment; however,

broken parts may be removed and taken back to the shop for repair.

This classification excludes welding construction and repairs to buildings or structures which are to be reported separately in the appropriate construction classification and mechanical repairs which are to be reported separately in the classification applicable to the work being performed.

3402-48 Automobile or truck, radiator and heater core: Manufacturing and repair shops

Applies to establishments engaged in the manufacture and/or repair of automobile or truck radiator and heater cores. Manufacturers in this classification may have a die casting area and a separate electronic assembly area. Tools and equipment include, but are not limited to, hand tools, solder guns, and punches. Shops that repair radiators may work on the radiators in the vehicles, but usually the radiators have been removed from the vehicle. The radiator is examined and the core may be removed. Next the radiator is cleaned, air pressurized, and dipped in a water tank to check it for leaks. Once the leaks are found they can generally be repaired by welding the holes shut. The radiator is dipped again to ensure the repair has been made properly. Cleaning the radiator may be done by sandblasting, ultra sound baths or by "rodding" the radiator to remove corrosion. Repair equipment includes, but is not limited to, welders, air and hand tools, dipping tanks, hoists, and forklifts. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-60 Office machinery, N.O.C.: Manufacturing or assembly; Cash register or sewing machines: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of cash registers, sewing machines and office machinery not covered by another classification (N.O.C.) such as, but not limited to, copiers, collators, mail/postage machines, calculators and automatic letter openers. Component parts may be metal, plastic, or wood. Operations include, but are not limited to, cutting, shaping, forming, drilling, riveting, clamping, and bolting; there may be a separate electronic assembly area. Machinery and tools vary within this classification; some establishments use hand and air tools only, others use additional equipment such as, but not limited to, saws, lathes, mills, drills, or water jets, some of which may be Computer Numeric Controlled (CNC). This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-61 Small arms: Manufacturing, assembly, or rebuild

Applies to establishments engaged in the manufacture, assembly, or rebuild of small arms. For the purpose of this classification, small arms means .50 caliber or less, such as pistols, rifles, shotguns, and light machine guns. Operations include, but are not limited to, metal stamping of casings, machining, assembling, and a high proportion of inspecting. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of ammunition which is to be reported separately in classification 4601; the manufacture or repair of heavy arms which is to be reported separately in classification 5109; and gun stores which are to be reported separately in classification 6309.

3402-74 Tool: Manufacturing, not hot forming or stamping; Die: Manufacturing - ferrous

Applies to establishments engaged in tool manufacturing or die manufacturing, for others, from ferrous materials. Tools manufactured in this classification are usually cutting tools used in lathes, mills, rotors, and saws. Machinery includes, but is not limited to, sharpeners, grinders, lathes and mills, which are both manual or Computer Numeric Controlled (CNC). The die manufacturing included in this classification includes those made exclusively of ferrous materials including, but not limited to, jigs, fixtures, and dies for metal work in general. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of machine-finished tools which are to be reported separately in classification 3402-83.

3402-77 Auto, truck, semi-trailer and bus body: Manufacturing;

Travel trailer body: Manufacturing or repair

Applies to establishments engaged in the manufacture of auto, truck, and bus bodies, and in the manufacture or repair of travel trailer bodies or cargo containers. Repairs are usually made with the use of welders or cutting torches and air or hand tools. These establishments will also repair or replace hydraulic units. Material used in the manufacture of goods in this classification is usually steel and aluminum, varying in thickness from 16 gauge to plate metal up to one inch thick.

Shapes include, but are not limited to, sheet metal, tubes, solid rod or I-beams. Equipment includes, but is not limited to, shears, breaks, hydraulic presses, iron workers, drill presses, grinders, welders, hoist, cranes, and forklifts. Shops may have a finish sanding area as well as a paint area where the vehicle bodies are sprayed with primer, a body bonding material, or a finish coat of paint. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-83 Tool: Manufacturing and machine finishing

Applies to establishments engaged in manufacturing and machine finishing tools. Tools manufactured in this classification are usually hand held instruments such as, but not limited to, wrenches, screw drivers, hammers, torque wrenches, pliers, and sockets. Machinery includes, but is not limited to, air and hand tools, polishers, grinders, inspection equipment, mills, lathes, shapers, and drill presses, some of which may be Computer Numeric Control (CNC). Establishments may have a galvanizing and/or electroplating area for the finish work which is included when performed by employees of employers subject to this classification. Other establishments in this classification send the finish work out. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of tools from ferrous materials which are to be reported separately in classification 3402-74; and establishments engaged in tool forging which are to be reported separately in classification 5106.

3402-85 Auto or truck parts: Machining or rebuild not in vehicle

Applies to establishments engaged in machining or rebuilding auto or truck parts such as, but not limited to, water pumps, fuel pumps, transmissions, heads, brake drums, ball joints, and rear ends, which are not in the vehicle. Work contemplated in this classification may also include manufacturing sockets, pulleys, shafts, fittings, flywheels, and/or bearings. Machinery includes, but is not limited to, mills, lathes, grinders, sanders, presses, welders, and balancing equipment. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in manufacturing

or rebuilding auto, truck, or aircraft engines which are to be reported separately in classification 3402-86.

3402-86 Auto, truck or aircraft engine, N.O.C.: Manufacturing or rebuilding

Applies to establishments engaged in manufacturing or rebuilding auto, truck, or aircraft engines not covered by another classification (N.O.C.), including manufacturing the component parts. Establishments in this classification often specialize in the type of engines they make or rebuild. The basic difference between automobile, truck, and aircraft engines is the size and weight of the parts being worked on. Engine rebuild shops use many specialized machines and air tools to tear the core down to an engine block; then rebuild the engine. After the engine is stripped down to the engine block, it is placed in a machine called a baker which heats to approximately 600 degrees and bakes away the grease. After baking, the engine block is placed in a sand blaster where the surface is cleaned with very fine steel shot. The engine block is then placed in a large pressure washer which removes the steel shot. Next, the crank and cam shafts are ground and turned on machinery similar to lathes. There is usually a separate room or area which is called the "head shop" where the heads and valves are machined on valve grinders, valve facers, and head grinders. Engine rebuild shops that do not have the equipment to grind the crank and cam shafts will contract work out to other shops, or buy new crank shafts and cam shafts. Other machinery includes, but is not limited to, boring bars and hones to polish cylinder walls, small pressure washers for oil pans and other smaller parts, solvent tanks, and hoists or forklifts for lifting the engines or engine parts. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in machining or rebuilding auto or truck parts, other than engines, which are to be reported separately in classification 3402-85.

3402-91 Bed spring or wire mattress: Manufacturing

Applies to establishments engaged in the manufacture of bed springs or wire mattresses. The wire stock is coiled and cut to length on a coiling machine, then tempered in an oven to produce the spring. The coils are fastened to the frame either by hand or by machine. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of stuffed mattresses which are to be reported separately in classification 3708.

3402-93 Valve: Manufacturing

Applies to establishments engaged in the manufacture of valves. Valves regulate the flow of air, gases, liquids, or loose material through structures by opening, closing, or obstructing passageways. They are operated manually, electrically, with compressed air, or hydraulic pressure. Valves are usually cut from aluminum, steel, or stainless steel either by a Computer Numeric Controlled machine (CNC) or water jet machine. Depending upon the complexity of the valve, they are assembled in one or several stages. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of valves made in a die mold which are to be reported separately in classification 3402-74.

3402-94 Precision machined parts, N.O.C.: Manufacturing

Applies to establishments engaged in manufacturing precision machined parts not covered by another classification (N.O.C.). Most of these establishments are "job shops." Job shops make component parts for other businesses according to customer specifications, rather than manufacturing a specific product. Many establishments in this classification manufacture precision parts for the aerospace industry. Machining usually begins with solid blocks of material such as, but not limited to, steel, aluminum, titanium, inconel, or plastic, although some hollow tube, flat bar, and angle stock may also be used. The "rough cuts" are often made on manual machines, and the finish cuts on Computer Numeric Controlled (CNC) machines. Depending on the establishment and the job specifications, a specific part may be sent to one or more additional shops to be tempered, milled, or inspected before the original establishment is through with the manufacturing process. Some parts are so sensitive that climate controlled conditions are necessary. Both manual and CNC mills and lathes are the most common types of machines used. Others include, but are not limited to, saws, drills, and grinding machines. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-95 Storage battery: Manufacturing, assembly or repair

Applies to establishments engaged in the manufacture, assembly, or repair of storage batteries. Lead ingots, weighing 20-25 pounds, are melted and poured into a mold or cast-

ing machine. After the grids are cooled lead oxide is then pumped onto each side of a grid and cured by baking in an oven of about 300 - 400 degrees F. The plates are then assembled by placing a negative separator (zinc) between a positive separator (copper), and so forth until there are enough of these cells to form the battery. Next, they are sent to a burning machine that cures the paste and plates. After the burning process, the plates are placed into a plastic or hard rubber box-like container and cured for two or three days. The plates are welded together and the top is attached to the body of the battery case with an epoxy glue. Diluted sulfuric acid is added to the battery and then it is put on a charger. The battery is then cleaned and packed for shipping. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of dry cell (flashlight type) batteries which are to be reported separately in classification 3602; and establishments engaged in battery sales and installation which are to be reported separately in the applicable automotive services classification.

3402-96 Automobile or motorcycle: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of automobiles or motorcycles. Most of the manufacturing operations, such as cutting, milling, and turning, are performed with Computer Numerically Controlled (CNC) machinery. Most of the assembly operations are performed with air and hand tools. Other machinery includes but is not limited to saws, grinders, and drill presses. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged only in the manufacture of auto bodies which are to be reported separately in classification 3402-77.

3402-98 Machinery, N.O.C.: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of machinery not covered by another classification (N.O.C.). For purposes of this classification, machinery means any combination of mechanical parts constructed primarily with metal. Finished products vary widely and range from hand held machines to those weighing thousands of pounds; products include, but are not limited to, grinding machines, boring machines, conveyer systems, and wood chippers. Machinery used to manufacture these items includes, but is not limited to, lathes, mills, press, breaks,

shears, and welders, some of which may be Computer Numerically Controlled (CNC). This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-99 Photo processing machinery: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of photo processing machinery such as, but not limited to, photo processors or film enlargers. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-3406 Classification 3406.

3406-00 Automotive or truck gas service stations, N.O.C.: Lube and oil change specialists, and mobile lube and oil services

Applies to establishments operating full service gasoline or diesel service stations not covered by another classification (N.O.C.). Full service includes, but is not limited to, pumping gas for customers, replacing wiper blades, checking and/or filling the fluid levels (oil, transmission, wiper wash and antifreeze), and adding air to the tires. The repairs included in this classification are oil and filter changes, tune-ups, replacement of brakes, front end alignments and the repair or replacement of tires. This classification includes cashiers.

This also applies to establishments engaged exclusively in preventive automotive maintenance, such as, but not limited to, changing oil and oil filters, lubing chassis, checking and/or filling fluid levels, replacing wiper blades, adding air to tires, and checking and/or replacing belts, hoses, and filters.

This classification excludes portable automobile or truck car washes which are to be reported separately in classification 6602; establishments engaged in automobile or truck repair services and tune up specialists which are to be reported separately in classification 3411; establishments engaged in the service or repair of machinery or equipment N.O.C. which are to be reported separately in classification 6409; self-service gas stations which are to be reported separately in classification 3409; and convenience grocery stores

or mini-markets with self-service gasoline operations which are to be reported separately in classification 3410.

3406-01 Automobile or truck storage garages

Applies to establishments operating automobile or truck storage garages. Generally, these types of storage garages consist of an enclosed structure and usually with more than one level of parking. Storage garages may provide additional incidental services such as, but not limited to, gasoline, tune-ups, washing and waxing services, as well as cashiers and full time attendants or security personnel.

This classification excludes portable automobile or truck car washes which are to be reported separately in classification 6602; establishments providing parking lot services which are to be reported separately in classification 6704; automobile or truck repair services which are to be reported separately in classification 3411; establishments engaged in the service or repair of machinery or equipment N.O.C. which are to be reported separately in classification 6409; self-service gas stations which are to be reported separately in classification 3409; and full service gas station services which are to be reported separately in classification 3406-00.

Special note: Storage garages applicable to this classification are distinguishable from parking lots in classification 6704 in that parking lots usually are not an enclosed structure, and they do not provide service to automobiles.

3406-04 Automobile or truck - detailing by contractor; glass tinting; windshield repair

Applies to establishments engaged in providing automobile or truck detailing services and to establishments engaged solely in tinting glass in automobiles or repairing cracks, chips or bullseyes in windshields. Detailing services involve complete, in-depth cleaning of exteriors and interiors such as, but not limited to, washing, waxing, polishing, buffing, vacuuming or otherwise cleaning the auto bodies, chrome work, tires, hub caps, windows, mirrors, carpets and seats and may also involve tinting glass. This classification includes cashiers.

This classification excludes portable automobile or truck car washes which are to be reported separately in classification 6602; tinting of automobile or truck window glass performed by a glass dealer which is to be reported separately in classification 1108; glass tinting or the application of tinted plastic film to glass windows and doors in buildings which are to be reported separately in classification 0511; detailing performed in connection with automobile or truck dealers, service centers or repair garages which are to be reported separately in classification 3411; detailing performed in connection with automobile or truck body and fender repair shops which are to be reported separately in classification 3412; detailing performed in connection with establishments engaged in the service or repair of machinery or equipment, N.O.C. which is to be reported separately in classification 6409; and detailing performed in connection with full service gas stations which are to be reported separately in classification 3406-00.

3406-05 Automobile or truck car washes

Applies to establishments providing automobile or truck washing services. This classification includes the exterior washing, waxing, polishing or buffing, cleaning of chrome

and tires, and the interior cleaning of windows, carpets, dash and seats. These services may be performed at a coin operated self-service unit, or at a full service automatic unit where the vehicle is conveyed through the line assisted by attendants. This classification includes cashiers and the sale of accessory items such as, but not limited to, bottled car care products, air fresheners, floor mats, beverages and snack foods.

This classification excludes portable automobile or truck car washes which are to be reported separately in classification 6602; washing services performed in connection with automobile or truck dealers, services centers or repair garages which are to be reported separately in classification 3411; washing services performed in connection with automobile or truck body and fender repair shops which are to be reported separately in classification 3412; washing services performed in connection with establishments engaged in the service or repair of machinery or equipment, N.O.C. which are to be reported separately in classification 6409; washing services performed in connection with full service gas stations which are to be reported separately in classification 3406; washing services performed in connection with self-service gasoline operations which are to be reported separately in classification 3409; and washing services performed in connection with convenience stores that have self-service gasoline operations which are to be reported separately in classification 3410.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-3414 Classification 3414.

3414-00 Boat dealers

Applies to establishments engaged in the sales, service, and/or repair of boats. Work contemplated by this classification includes, but is not limited to, mechanical and electrical system repairs, vinyl and glass repairs, engine rebuilding and reconditioning, detailing boats, reconditioning seat pads and other accessories, sales and installation of boat accessories, and sales of boat trailers, specialty apparel and fishing gear when performed by employees of an employer subject to this classification. This classification also includes parts department employees, sales employees who also assist in duties described in this classification, and lot personnel.

This classification excludes boat sales personnel who may be reported separately in classification 6301 provided all the conditions of the general reporting rule covering standard exception employees have been met; repairs done in connection with manufacturing operations which are to be reported separately as applicable; and establishments engaged in the repair of fiberglass or sheet metal boat bodies which are to be reported separately in classification 3412 and the repair of wooden boats which is to be reported separately in classification 2903.

3414-01 Marinas and boat house operations: Boat storage facilities

Applies to establishments engaged in providing a variety of boat-related services and facilities, and to service or repair centers. Boat storage facilities may be located in waterways

adjacent to the marina or on dry land and may be operated by a marina or by a separate business. Both types of storage facilities are included within the scope of this classification. Work contemplated by this classification includes, but is not limited to, fuel service, mechanical and electrical repair service, parts departments, boat storage, moorage, sales of fishing gear, wearing apparel, groceries and bait, boat rentals and sales, and boat launching facilities when performed by employees of an employer assigned to this classification. This classification also includes other incidental services and facilities such as, but not limited to, self-service laundry facilities, public showers, holding tank pump out stations, passenger car or truck parking, and dockside electricity.

This classification excludes repairs done in connection with manufacturing operations which are to be reported separately as applicable; establishments engaged in the repair of fiberglass or sheet metal boat bodies which are to be reported separately in classification 3412; seafood or fish processing facilities operated in connection with a marina operation which are to be reported separately in classification 3304; and boat sales personnel who may be reported separately in classification 6301 provided all the conditions of the general reporting rule covering standard exception employees have been met. Overnight lodging facilities and restaurant services provided to customers by a marina operator may be reported separately provided all the conditions of the general reporting rule covering a secondary business have been met.

Special note: Some marina operators will offer boating instructions and charter boat services. Care should be taken in this area as certain boating and charter fishing excursions are not covered by state workers' compensation coverage.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-5001 Classification 5001.

5001-03 Logging, N.O.C.

Applies to establishments engaged in various logging operations not covered by another classification (N.O.C.). Typical work contemplated by this classification includes, but is not limited to, high lead or tower logging, ground logging, and team logging with horses. For purposes of this rule, logging is the complete operation of felling, skidding, yarding, delimiting, and bucking of trees into logs or block wood and loading them onto trucks or rail cars.

Definitions:

High Lead or Tower Logging - usually occurs in steep terrain where a metal tower is set-up on a hilltop with a system of heavy cables running down the hillside and fastened to a stump or tree and has other smaller cables with chokers hanging from it. A choker is wrapped around each fallen tree and pulled back to the landing site.

Helicopter logging - includes ground crews that work with the use of helicopters to hoist fallen trees or bucked log lengths to the landing ((~~sight~~)) side.

Chokers - chains or cables which are attached to the fallen trees for skidding to the landing site.

Ground logging - usually occurs on relatively flat land; fallen trees are moved to a landing by a skidder, cat or shovel.

Bucking - stripping or delimiting tree of branches and cutting the tree to desired log lengths.

Skidding - process of dragging the fallen logs to the landing site.

Landing - place where the fallen logs are brought for sorting and loading onto log trucks.

Yarding - usually performed at the landing site with use of a log loader to sort the logs by species, length and diameter, prior to loading onto log trucks.

This classification excludes flight crews of helicopters used in helicopter logging which are to be reported separately in classification 6803; log hauling which is to be reported separately in classification 5003; logging road construction which is to be reported separately in classification 6902; logging machine operators which are to be reported separately in classification 0101; and mechanical or mechanized logging operations which are to be reported separately in classification 5005 provided the classification has been approved by the classification services section.

5001-04 Shake, shingle bolt, and post cutting

Applies to establishments engaged in the cutting of shakes, shingle bolts (blocks), and fence posts in the woods. For the purposes of this rule, this classification includes all operations performed in the woods such as, but not limited to, the felling of trees, stripping or delimiting of branches, and all further cutting or splitting of trees/logs to produce shakes, shingle bolts or fence posts. This classification includes all transporting of shakes, shingle bolts or fence posts from the cutting site when conducted by employees of employers subject to this classification.

5001-05 Firewood cutting

Applies to establishments engaged in the cutting of firewood in the woods. For the purposes of this rule, this classification includes all operations performed in the woods such as, but not limited to, the felling of trees, stripping or delimiting of branches, and all further cutting or splitting of trees/logs to produce firewood. This classification includes all transporting of log lengths, rounds or split wood from the cutting site when conducted by employees of employers subject to this classification.

5001-06 Sawmill operations conducted in the woods in connection with logging operations

Applies to establishments operating a temporary or portable sawmill operation in the woods. This type of work is usually performed on privately owned land. A portable sawmill and saw tables, similar to those at a permanent sawmill location, are transported directly to the logging site. Log lengths are fed through a circular saw that is capable of producing various sized rough cut timber, blocks, boards and planks. This classification includes all transporting of rough cut timber, blocks, boards and planks from the cutting and/or sawing site when conducted by employees of employers subject to this classification.

This classification excludes sawmill operations which are not conducted in the woods in connection with a logging operation which is to be reported separately in the applicable sawmill classification.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-5109 Classification 5109.

5109-46 Heavy machinery & equipment including locomotive engines: Manufacture or repair; Press roller recoating/resurfacing

Applies to establishments engaged in the manufacture, assembly, and repair of heavy equipment. Machinery and equipment subject to this classification are usually made of steel and steel/iron castings and include, but are not limited to, bulldozers, dump trucks, graders, skidders, forklifts and logging towers. The component parts may weigh several hundred to thousands of pounds. Overhead cranes are commonly used in the assembly process. Machinery used in the manufacturing, assembly, and repair includes, but is not limited to, boring mills, lathes, iron workers, welders/cutters, cut saws, and drills. Some establishments use CNC (computer numeric controlled) machinery; however, most establishments in this classification primarily use manual machinery and conventional welders/cutters. Other common operations covered by this classification include paint, welding, and electronic assembly areas. This classification also includes establishments that repair, recoat or resurface press rollers such as, but not limited to, the type rollers used by printing and paper making mills. Operations include repairing the interior shafts of the rollers, then grinding fiberglass or ceramic finishes until they are smooth. For rubber-coated surfaces, they remove the old rubber from the metal surface, sandblast the roller, then recoat it with new rubber. Most establishments that recoat the surface with rubber will mix and extrude their own rubber which is included in this classification when performed by employees of employers subject to this classification.

This classification excludes the manufacture of nonpassenger type vehicles such as semi-trucks which are to be reported in classification 3605; auto or passenger vehicle manufacturing which is to be reported in 3402. Semi-truck repair and service centers are to be reported separately in classification 6409.

Special note: Field work as well as shop work is contemplated as an integral part of this classification. A vehicle may be equipped with welding equipment and other tools used for field repair. The broken part may be replaced in the field or returned to the shop, repaired if feasible, or a new part is ordered. The part is then loaded onto the field vehicle taken to the job site and reconnected. Some establishments perform this type of field work almost exclusively.

5109-47 Heavy arms: Manufacturing or repair

Applies to establishments engaged in the manufacture or repair of heavy arms including large munitions. This classification applies to all types of guns 20 MM and larger including, but not limited to, aircraft guns, tank guns, naval guns, torpedoes and aircraft gun turrets.

Special note: Field work as well as shop work is contemplated as an integral part of this classification. A vehicle may be equipped with welding equipment and other tools used for field repair. The broken part may be replaced in the field or returned to the shop, repaired if feasible, or a new part is ordered. The part is then loaded onto the field vehicle taken

to the job site and reconnected. Some establishments perform this type of field work almost exclusively.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6409 Classification 6409.

6409-00 Dealers: Machinery/equipment, N.O.C.;

Service/repair garages: Machinery/equipment, N.O.C.

Applies to establishments engaged in the sale, lease, rental, service, and/or repair of new or used machinery and equipment not covered by another classification (N.O.C.). For purposes of this classification the terms machinery or equipment includes, but are not limited to, semi trucks, diesel tractors, buses, construction equipment, concrete barriers and other flagging equipment used in construction projects, logging equipment, transportation equipment, freight hauling equipment, well drilling equipment, power generators, and industrial or manufacturing machinery. Operations of dealers include, but are not limited to, the sale, lease, rental, demonstration, service, or repair of their equipment, either on their premises or at the customer's site, and delivery to customer. The variety of merchandise carried by a machinery and equipment dealer varies with the needs of the geographical area and may be displayed in inside showrooms and/or outside yards. Operations of service centers include diagnostic services, all phases of mechanical service such as, but not limited to, tuning, overhauling and/or rebuilding engines, motors, or transmissions, resurfacing heads, repairing carburetors or fuel injection systems and grinding valves or brakes on equipment or machinery owned by others. In addition to parts for the machinery and equipment, establishments in this classification may carry some automobile parts, hardware items, and supplies such as oil, filters, and belts. This classification includes lot sales and lot personnel, service managers and employees, parts department employees who have exposure to the service/repair shop or duties related to the sale of machinery/equipment, towing service for in-shop repairs, and regional sales and/or service representatives who provide factory service or training to local dealers and other customers. Parts department employees who are not exposed to any hazards of the service/repair shop or have no duties related to the sale of machinery/equipment may be reported separately in classification 6309. This classification also includes the rental and installation of temporary fences.

This classification excludes farm machinery and equipment dealers who are to be reported separately in classification 6408; store operations of dairy equipment and supply dealers which is to be reported separately in classification 6407; the installation of industrial plant equipment which is to be reported separately in classification 0603; the installation, service, or repair of dairy machinery or equipment which is to be reported separately in classification 0603; all field installation, service, or repair work of wind machine dealers which is to be reported separately in classification 0603; and the manufacture or structural repair of heavy machinery or equipment which is to be reported separately in classification ((3402)) 5109.

Special note: Care needs to be taken when considering the assignment of classification 6309 for the sale of parts.

Most businesses assigned to classification 6409-00 have an inventory of parts or accessories which they use in the service or repair of machinery or equipment, or maintain as a convenience to their customers. *Only* those businesses that maintain a complete line of replacement parts that is physically separated from the service/repair shop should be considered for classification 6309.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6510 Classification 6510.

6510-00 Domestic servants/home care assistants employed in or about the private residence of a home owner

Applies to individuals employed by a home owner to provide domestic services/home care assistants in or about the home owner's private residence. This classification includes services such as, but not limited to, cooking, house-keeping, caring for children, caring for the elderly and handicapped including personal care such as bathing, body care, dressing and help with ambulating, as well as companionship, running errands, shopping, gardening, caretaker at homeowner's residence, and transporting members of the household by vehicle to appointments, after school activities, or similar activities. This classification also includes the care of animals not used for a business at the homeowner's residence.

This classification is subject to the provisions of RCW 51.12.020 - Employments excluded - which states in part: "The following are the only employments which shall not be included within the mandatory coverage of this title:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed forty or more hours a week in such employment.

(2) Any person employed to do gardening, maintenance, or repair, in or about the private home of the employer...."

This classification is also subject to the provisions of RCW 51.12.110 which allows the employer to elect optional coverage for domestic servants and caretakers.

This classification excludes entities whose nature of business is to provide chore services which are to be reported separately in classification 6511; domestic (residential) cleaning or janitorial services which are to be reported separately in classification 6602; ~~((and))~~ lawn and yard maintenance services which are to be reported separately in classification 0308; skilled or semiskilled nursing care which is to be reported separately in classification 6110; and new construction which would be reported in the classification appropriate for that phase of construction.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6511 Classification 6511.

6511-00 Chore services/home care assistants

Applies to establishments engaged in providing chore services/home care assistants to private individuals. Chore

services performed by the chore workers/home care assistants include, but are not limited to, general household chores, meal planning and preparation, shopping and errands either with or without the client, personal care such as bathing, body care, dressing, and help with ambulating, as well as companionship. Frequently the recipients of service are funded by DSHS or some other community service agency; however, the services are also available to those who pay privately. This classification also applies to supported living, tenant support, and intensive tenant support services.

This classification excludes individuals working under a welfare special works training program who are to be reported separately in classification 6505; domestic (residential) cleaning or janitorial services which are to be reported separately in classification 6602; and skilled or semiskilled nursing care which is to be reported separately in classification 6110. This classification also excludes home care providers covered under the home care quality authority who are to be reported separately under classification ~~((6511-01))~~ 6512.

WSR 07-09-080
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health and Recovery Services Administration)
[Filed April 17, 2007, 3:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-136.

Title of Rule and Other Identifying Information: WAC 388-550-4600 Hospital selective contracting program and 388-550-4700 Payment—Non-SCA participating hospitals.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503, (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097, on May 22, 2007, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 23, 2007.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on May 22, 2007.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Coordinator, by May 18, 2007, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is ending the hospital selective contracting program on June 30, 2007.

Reasons Supporting Proposal: The program is ending because it is being replaced with a new inpatient payment system. The hospital selective contracting program was based on negotiating a rate below the conversion factor based

on facility-specific costs (subject to peer group caps in some instances). Conversion factors in the new inpatient payment system were generally based on statewide weighted average cost per discharge amounts, which were then adjusted to reflect the unique characteristic of hospitals in the state for payment purposes. The new inpatient methodology was developed as budget neutral; aggregate payments to hospitals under the proposed methodology do not exceed what projected aggregate payments would be to those same hospitals if the current methodology remained in place.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500.

Statute Being Implemented: RCW 74.08.090 and 74.09.500.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1342; Implementation and Enforcement: Larry Linn, P.O. Box 45502, Olympia, WA 98504-5502, (360) 725-1856.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has determined that the proposed rule will not create more than minor costs for affected small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Larry Linn, P.O. Box 45502, Olympia, WA 98504-5502, phone (360) 725-1856, fax (360) 753-9152, e-mail linnld@dshs.wa.gov.

April 13, 2007
Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-08-046, filed 3/30/06, effective 4/30/06)

WAC 388-550-4600 Hospital selective contracting program. This section applies only for dates of admission before July 1, 2007. The hospital selective contracting program ends on June 30, 2007.

(1) The department designates selective contracting areas (SCA) in which hospitals participate in competitive bidding to provide hospital services to Medicaid clients. Selective contracting areas are based on historical patterns of hospital use by Medicaid clients.

(2) The department requires Medicaid clients in a selective contracting area obtain their elective (nonemergent) inpatient hospital services from participating or exempt hospitals in the SCA. Elective (nonemergent) inpatient hospital services provided by nonparticipating hospitals in an SCA shall not be reimbursed by the department, except as provided in WAC 388-550-4700.

(3) The department exempts from the selective contracting program those hospitals that are:

(a) In an SCA but designated by the department as remote. The department designates hospitals as remote when they meet the following criteria:

- (i) Located more than ten miles from the nearest hospital in the SCA;
- (ii) Having fewer than seventy-five beds; and
- (iii) Having fewer than five hundred Medicaid admissions in a two-year period.
- (b) Owned by health maintenance organizations (HMOs) and providing inpatient services to HMO enrollees only;
- (c) Children's hospitals;
- (d) State psychiatric hospitals or separate (freestanding) psychiatric facilities;
- (e) Out-of-state hospitals located in nonbordering cities, and out-of-state hospitals in bordering cities not designated as selective contracting areas;
- (f) Peer group E hospitals; and
- (g) Peer group F hospitals (critical access hospitals).
- (4) The department:
 - (a) Negotiates with selectively contracted hospitals a negotiated conversion factor (NCF) for inpatient hospital services provided to Medicaid clients.
 - (b) Calculates its maximum financial obligation for a Medicaid client under the hospital selective contract in the same manner as DRG payments using cost-based conversion factors (CBCFs).
 - (c) Applies NCFs to Medicaid clients only. (The department uses CBCFs in calculating payments for medical care services clients.)

AMENDATORY SECTION (Amending WSR 99-06-046, filed 2/26/99, effective 3/29/99)

WAC 388-550-4700 Payment—Non-SCA participating hospitals. This section applies only for dates of admission before July 1, 2007. The hospital selective contracting program ends on June 30, 2007.

- (1) In a selective contracting area (SCA), MAA pays any qualified hospital for inpatient hospital services provided to an eligible medical care client for treatment of an emergency medical condition.
- (2) MAA pays any qualified hospital for medically necessary but nonemergent inpatient hospital services provided to an eligible medical care client deemed by the department to reside an excessive travel distance from a contracting hospital.
 - (a) The client is deemed to have an excessive travel burden if the travel distance from a client's residence to the nearest contracting hospital exceeds the client's county travel distance standard, as follows:

<u>County</u>	<u>Community Travel Distance Standard</u>
Adams	25 miles
Asotin	15 miles
Benton	15 miles
Chelan	15 miles
Clallam	20 miles
Clark	15 miles
Columbia	19 miles
Cowlitz	15 miles
Douglas	20 miles

<u>County</u>	<u>Community Travel Distance Standard</u>
Ferry	27 miles
Franklin	15 miles
Garfield	30 miles
Grant	24 miles
Grays Harbor	23 miles
Island	15 miles
Jefferson	15 miles
King	15 miles
Kitsap	15 miles
Kittitas	18 miles
Klickitat	15 miles
Lewis	15 miles
Lincoln	31 miles
Mason	15 miles
Okanogan	29 miles
Pacific	21 miles
Pend Oreille	25 miles
Pierce	15 miles
San Juan	34 miles
Skagit	15 miles
Skamania	40 miles
Snohomish	15 miles
Spokane	15 miles
Stevens	22 miles
Thurston	15 miles
Wahkiakum	32 miles
Walla Walla	15 miles
Whatcom	15 miles
Whitman	20 miles
Yakima	15 miles

- (b) If a client must travel outside his/her SCA to obtain inpatient services not available within the community, such as treatment from a tertiary hospital, the client may obtain such services from a contracting hospital appropriate to the client's condition.
- (3) MAA requires prior authorization for all nonemergent admissions to nonparticipating hospitals in an SCA. See WAC 388-550-1700 (2)(a).
- (4) MAA pays a licensed hospital all applicable Medicare deductible and coinsurance amounts for inpatient services provided to Medicaid clients who are also beneficiaries of Medicare Part A subject to the Medicaid maximum allowable as established in WAC 388-550-1200 (8)(a).
- (5) The department pays any licensed hospital DRG-exempt services as listed in WAC 388-550-4400.

WSR 07-09-082
PROPOSED RULES
UNIVERSITY OF WASHINGTON

[Filed April 17, 2007, 4:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-05-090.

Title of Rule and Other Identifying Information: WAC 478-160-163 Waivers of tuition and fees.

Hearing Location(s): Room 200C, Husky Union Building (HUB), University of Washington, Seattle, Washington 98195, on May 22, 2007, at 12:30 p.m.

Date of Intended Adoption: June 7, 2007.

Submit Written Comments to: Rebecca Goodwin Dearthoff, Director of Rules Coordination, UW Rules Coordination Office, Box 355509, Seattle, WA 98195-5509, e-mail rules@u.washington.edu, fax (206) 221-6917, by May 22, 2007.

Assistance for Persons with Disabilities: Contact disability services office by May 11, 2007, TTY (206) 543-6452 or (206) 543-6450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently, the University of Washington's rules allow veterans and children and spouses of veterans who qualify under RCW 28B.15.621 and WAC 478-160-163 to receive tuition waivers when seeking their first undergraduate degree. The amendments to WAC 478-160-163 would extend tuition waivers to eligible veterans and children and spouses of veterans who seek their first graduate or professional degree at the University of Washington.

Reasons Supporting Proposal: The university and its board of regents find that extension of tuition waivers to eligible veterans in the university's graduate and professional programs will provide vital monetary support for these returning men and women who have served their county and the state of Washington in a time of war. Providing the same waiver extension for the children and spouses of combat troops who were killed, became totally disabled, are missing in action or are being held as prisoners of war is also necessary to provide support for the families of our troops who have made such great sacrifices in service to their country.

Statutory Authority for Adoption: RCW 28B.15.621 and 28B.20.130.

Statute Being Implemented: RCW 28B.15.621.

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

Name of Proponent: University of Washington, governmental.

Name of Agency Personnel Responsible for Drafting: Gary Quarfoth, Interim Vice Provost for Planning and Budgeting, 134C Gerberding Hall, University of Washington, Seattle, (206) 616-2425; Implementation and Enforcement: Eric Godfrey, Vice Provost of Student Life, 476 Schmitz Hall, University of Washington, Seattle, (206) 543-0128.

No small business economic impact statement has been prepared under chapter 19.85 RCW. WAC 478-160-163 Waivers of tuition and fees, does not impose a disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. WAC 478-160-163 is not considered a significant legislative rule by the University of Washington.

April 17, 2007

Rebecca Goodwin Dearthoff
 Director of Rules Coordination

AMENDATORY SECTION (Amending WSR 06-12-008, filed 5/26/06, effective 6/26/06)

WAC 478-160-163 Waivers of tuition and fees. (1)

The board of regents is authorized to grant tuition and fee waivers to students pursuant to RCW 28B.15.910 and the laws identified therein. Each of these laws, with the exception of RCW 28B.15.543 and 28B.15.545, authorizes, but does not require, the board of regents to grant waivers for different categories of students and provides for waivers of different fees. The board of regents must affirmatively act to implement the legislature's grant of authority under each individual law. A list of waivers that the board has implemented can be found in the *University of Washington General Catalog*, which is published biennially. The most recent list may be found in the online version of the *General Catalog* at www.washington.edu/students/reg/tuition_exempt_reductions.html.

(2) Even when it has decided to implement a waiver listed in RCW 28B.15.910, the university, for specific reasons and a general need for flexibility in the management of its resources, may choose not to award waivers to all students who may be eligible under the terms of the laws. Where the university has chosen to impose specific limitations on a waiver listed in RCW 28B.15.910, those limitations are delineated in subsection (5) of this section. If the university has not imposed specific limitations on a waiver listed in RCW 28B.15.910, the waiver is not mentioned in subsection (5) of this section. The university's description of the factors it may consider to adjust a waiver program to meet emergent or changing needs is found in subsection (7) of this section. All waivers are subject to subsection (7) of this section.

(3) The board of regents also has the authority under RCW 28B.15.915 to grant waivers of all or a portion of operating fees as defined in RCW 28B.15.031. Waiver programs adopted under RCW 28B.15.915 are described in the *General Catalog*. The most recent list may be found in the online version of the *General Catalog* at www.washington.edu/students/reg/tuition_exempt_reductions.html. Waivers granted under RCW 28B.15.915 are subject to subsection (7) of this section.

(4) Waivers will not be awarded to students participating in self-sustaining courses or programs because they do not pay "tuition," "operating fees," "services and activities fees," or "technology fees" as defined in RCW 28B.15.020, 28B.15.031, 28B.15.041, or 28B.15.051, respectively.

(5) Specific limitations on waivers are as follows:

(a) Waivers authorized by RCW 28B.15.621 (2)(a) for eligible veterans and National Guard members, shall be awarded only to:

(i) Undergraduate students pursuing their first bachelor's degree to a maximum of 225 college-level credits, including

credits transferred from other institutions of higher education; and

(ii) Full-time graduate or professional degree students pursuing their first advanced degree (including advanced degrees earned at other institutions), provided however, that graduate and professional degree students who received a waiver authorized by RCW 28B.15.621 (2)(a) as undergraduates at any Washington state institution of higher education shall not be eligible for this waiver.

(b) Waivers authorized by RCW 28B.15.621 (2)(b) and (c) for children or spouses of eligible veterans and National Guard members who became totally disabled, or lost their lives, while engaged in active federal military or naval service, or who are prisoners of war or missing in action, shall be awarded only to:

(i) Undergraduate students pursuing their first bachelor's degree to a maximum of 225 college-level credits, including credits transferred from other institutions of higher education; and

(ii) Full-time graduate or professional degree students pursuing their first advanced degree (including advanced degrees earned at other institutions), provided however, that graduate and professional degree students who received a waiver authorized by RCW 28B.15.621 (2)(b) or (c) as undergraduates at any Washington state institution of higher education shall not be eligible for this waiver.

(c) Waivers of nonresident tuition authorized by RCW 28B.15.014 for university faculty and classified or professional staff shall be restricted to four consecutive quarters from their date of employment with the University of Washington. The recipient of the waiver must be employed by the first day of the quarter for which the waiver is awarded. Waivers awarded to immigrant refugees, or the spouses or dependent children of such refugees, shall be restricted to persons who reside in Washington state and to four consecutive quarters from their arrival in Washington state.

(d) Waivers authorized by RCW 28B.15.380 for children of police officers or fire fighters who are deceased or permanently disabled, shall be awarded only to undergraduate students pursuing their first bachelor's degree to a maximum of 225 college-level credits, including credits transferred from other institutions of higher education.

(e) Waivers authorized by RCW 28B.15.558 shall be awarded only to:

(i) University of Washington employees who are employed half-time or more, hold qualifying appointments as of the first day of the quarter for which the waivers are requested, are paid monthly, and, for classified staff new to the university, have completed their probationary periods prior to the first day of the quarter; or

(ii) State of Washington permanent employees who are employed half-time or more, are not University of Washington permanent classified employees, are permanent classified or exempt technical college paraprofessional employees, or are permanent faculty members, counselors, librarians or exempt employees at other state of Washington public higher education institutions.

(6) To qualify an individual as an "eligible veteran or National Guard member," the person seeking the waiver must present proof of domicile in Washington state and a DD form

214 (Report of Separation) indicating their service related to specific United States military operations or campaigns fought on foreign soil or in international waters.

(7) The university may modify its restrictions or requirements pursuant to changes in state or federal law, changes in programmatic requirements, or in response to financial or other considerations, which may include, but are not limited to, the need to adopt fiscally responsible budgets, the management of the overall levels and mix of enrollments, management initiatives to modify enrollment demand for specific programs and management decisions to eliminate or modify academic programs. The university may choose not to exercise the full funding authority granted under RCW 28B.15.910 and may limit the total funding available under RCW 28B.15.915.

WSR 07-09-083

PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

[Filed April 17, 2007, 4:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-05-085.

Title of Rule and Other Identifying Information: WAC 232-12-257 Use of decoys and calls, 232-16-600 North Potholes Game Reserve, and 232-16-780 Fir Island Farm Game Reserve.

Hearing Location(s): Mirabeau Park Hotel & Convention Center, 1100 North Sullivan Road, Spokane Valley, WA 99037, (509) 924-9000, on June 1-2, 2007, at 8:00 a.m.

Date of Intended Adoption: August 3-4, 2007.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2162, by May 2, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager by May 29, 2007, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 232-12-257 Use of decoys and calls, this amendment revises language regarding department owned or controlled lands, waters, and access areas; for consistency with wildlife area rules currently under consideration by the commission.

WAC 232-16-600 North Potholes Game Reserve, restricting public access to the North Potholes Game Reserve during critical use periods to protect colonial nesting species and migrating waterfowl habitat values.

WAC 232-16-780 Fir Island Farm Game Reserve, this amendment makes a small adjustment to the reserve boundary.

Reasons Supporting Proposal: WAC 232-12-257 Use of decoys and calls, this revision will provide consistency with other proposed rules.

WAC 232-16-600 North Potholes Game Reserve, this revision will promote colonial nesting bird and waterfowl resource conservation.

WAC 232-16-780 Fir Island Farm Game Reserve, revision of this reserve boundary will reduce unethical hunting behavior, decrease snow goose wounding loss, and make the emergency change from last season permanent.

Statutory Authority for Adoption: RCW 77.12.240.

Statute Being Implemented: RCW 77.12.240.

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

Name of Proponent: Washington fish and wildlife commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

A cost-benefit analysis is not required under RCW 34.05.328. Not hydraulics rules.

April 17, 2007

Lori Preuss

Rules Coordinator

AMENDATORY SECTION (Amending Order 06-92, filed 5/8/06, effective 6/8/06)

WAC 232-12-257 Use of decoys and calls. (1) It is unlawful to hunt waterfowl, wild turkeys, or deer with the use or aid of battery-powered or other electronic devices as decoys.

(2) It is unlawful to hunt waterfowl, wild turkeys, or deer with the use or aid of electronic calls.

(3) On days open to waterfowl hunting, persons using ~~((lands or waters controlled by the))~~ department-owned or controlled lands, waters, or access areas shall not:

(a) Place waterfowl decoys prior to 4:00 a.m.;

(b) Allow or permit waterfowl decoys to be unattended or not in their immediate control for a period greater than one hour; or

(c) Fail to remove waterfowl decoys within two hours after the close of established daily hunting hours.

(4) On days closed to waterfowl hunting, persons using ~~((lands or waters controlled by the))~~ department-owned or controlled lands, waters, or access areas shall not place waterfowl decoys except as authorized by permit of the director.

(5) This regulation shall be enforced under RCW 77.15.-400.

AMENDATORY SECTION (Amending Order 03-175, filed 8/5/03, effective 9/5/03)

WAC 232-16-600 North Potholes Game Reserve. Those lands in Grant County within the following described boundary: In T19N, R27E WM; the N.E. 1/4 of Section 32,

and the N.E. 1/4 S.E. 1/4 of Section 32, all of Section 33, except the S.W. 1/4 S.W. 1/4, and all of Section 34.

In T18N, R27E WM; all of Section 4, except the N.W. 1/4 and the N.W. 1/4 N.E. 1/4; all of Section 3; that part of Section 10 north of the Job Corps Dike Rd; that part of Section 9 east of the fenceline, beginning at the N.W. corner of Section 9, and then following said fenceline southeasterly to the fence on the northern section line of Section 16 near Job Corps Dike Road; those portions of sections 15 and 16 north of the above mentioned fence to the west end of the Job Corps Dike; and that part of Section 15 north of the Job Corps Dike Road.

All areas of North Potholes Game Reserve located in Sections 9, 10, and 15 are closed to all public access from March 15 through May 30 and from October 1 through February 1.

AMENDATORY SECTION (Amending Order 97-162, filed 8/25/97, effective 9/25/97)

WAC 232-16-780 Fir Island Farm Game Reserve. In Skagit County, beginning at the intersection of Fir Island Road and the ~~((east))~~ west bank of Brown's Slough (inside base of dike); then east along Fir Island Road (96 feet) to the Brown's Slough dike; then southerly and easterly along the Brown's Slough dike to the Fir Island Farm access road; then north along the Fir Island Farm access road to Fir Island Road; then east along Fir Island Road to the northeast corner of Section 22 (T33N, R3E); then south along the east line of Section 22 (T33N, R3E) to Dry Slough; then westerly and south along the west bank of Dry Slough to the intersection with Dike District #22 dike; then westerly along the south side (Skagit Bay side) of the Dike District #22 dike to the intersection of the Dike District #22 dike and the south line of Government Lot #5 (Section 22, T33N, R3E), then west approximately 1900 feet to the ~~((east))~~ west bank of Brown's Slough (inside base of dike), then north along the ~~((east))~~ west bank of Brown's Slough to the intersection with the Fir Island Road and the point of beginning.

WSR 07-09-084

PROPOSED RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Filed April 17, 2007, 4:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-05-086.

Title of Rule and Other Identifying Information: New chapter 232-13 WAC, Public conduct in wildlife areas and access sites owned or controlled by the department of fish and wildlife; and repealing WAC 232-12-174 Domestic animals on department lands, 232-12-177 Vehicles using department lands, 232-12-184 Aircraft—Authorized use on department lands, 232-12-187 Access areas—Other department lands—Wildlife agent to control traffic thereon, and 232-12-251 Removal of minerals, wood, and artifacts from department lands.

Hearing Location(s): MirabeauPark Hotel & Convention Center, 1100 North Sullivan Road, Spokane Valley, WA 99037, (509) 924-9000, on June 1-2, 2007, at 8:00 a.m.

Date of Intended Adoption: August 3-4, 2007.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2162, by May 2, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager by May 29, 2007, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: New chapter 232-13 WAC, the purpose of this new chapter is to establish allowed and prohibited activities on department of fish and wildlife owned or controlled lands, waters, or access areas. These include activities relating to: Aircraft use, proper behavior and conduct, camping, commercial use or activities, dumping and sanitation, erecting structures, firearms and target practice, fireworks, livestock, parking, pets, resource removal, and vehicle use. It also establishes the authority to regulate public use, clarifies enforcement authority, and establishes violations of this chapter as misdemeanors.

Repealing WAC 232-12-174, 232-12-177, 232-12-184, 232-12-187, and 232-12-251, these WAC topics will be incorporated into new chapter 232-13 WAC.

Reasons Supporting Proposal: The department's paramount responsibilities are to preserve, protect, perpetuate, and manage the fish and wildlife species of the state and maximize opportunities for people to hunt, fish, and appreciate fish and wildlife. It has been observed in recent years that many activities currently occurring on department lands are inconsistent with fish and wildlife management goals, damage habitat, disturb wildlife, or prevent others from enjoying fish and wildlife recreational opportunities. This new chapter serves to curb these undesirable effects. Regulations directing public use activities are currently scattered among other regulations. There is a need to consolidate them under one heading for clarity, better enforcement, and to ultimately allow the department to fulfill its responsibilities.

Statutory Authority for Adoption: RCW 77.12.210, 77.12.880.

Statute Being Implemented: RCW 77.12.210, 77.12.-880.

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

Name of Proponent: Washington fish and wildlife commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate the use of department owned or controlled lands and do not pose an additional cost to small business beyond what is already required.

A cost-benefit analysis is not required under RCW 34.05.328. Not hydraulics rules.

April 17, 2007

Lori Preuss
Rules Coordinator

Chapter 232-13 WAC

PUBLIC CONDUCT IN WILDLIFE AREAS AND ACCESS SITES OWNED OR CONTROLLED BY THE DEPARTMENT OF FISH AND WILDLIFE

NEW SECTION

WAC 232-13-010 Introduction. The Washington department of fish and wildlife (department) is governed by a dual mandate. Its paramount responsibility is to preserve, protect, perpetuate, and manage the fish and wildlife species of the state (RCW 77.04.012). At the same time, the department strives to maximize opportunities for people to hunt, fish, and appreciate fish and wildlife (RCW 77.04.012 and 77.04.020).

NEW SECTION

WAC 232-13-020 Purpose. Primary purposes for the public use of department-owned or controlled public lands, waters, or access areas are lawful hunting and fishing, wildlife observation, and other wildlife oriented recreational activities. Other activities are secondary and may be restricted or prohibited.

NEW SECTION

WAC 232-13-030 Definitions. Definitions used in rules of the fish and wildlife commission are defined in RCW 77.08.010. In addition, unless otherwise provided:

(1) "Aircraft" means any machines designed to travel through the air, whether heavier or lighter than air, including but not limited to airplanes, dirigibles, balloons, and helicopters. The term "aircraft" shall not include paragliders or remote controlled aircraft.

(2) "Camping" means erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

(3) "Campgrounds" are department designated areas where camping is allowed.

(4) "Closed or restricted access" means any department-owned or controlled public lands, waters, or access areas (including roads and trails) that are gated and locked, closed by earthen mound, or designated as closed or posted as such with signs.

(5) "Commercial use or activity" is any use or activity on department-controlled or managed lands, waters, or access areas:

- (a) Where an entry or other type of fee is charged; or
- (b) Where the primary purpose is the sale or barter of a good or service; and
- (c) In either case, the term applies regardless of whether the use or activity is intended to produce a profit.

(6) "Firearm" means a loaded or unloaded pistol, rifle, shotgun, or other weapon that is designed to, or may be readily converted to, expel a bullet or pellets by the ignition of a propellant.

(7) "Fireworks" means any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and which meets the definition of articles pyrotechnic or consumer fireworks or display fireworks.

(8) "Incendiary" means causing or designed to cause fires, such as certain substances or bombs.

(9) "Land" means any area (including water, access areas, roads, and trails) under the ownership, management, or control of the department.

(10) "Livestock" means any hooved animal used for agriculture, riding, pulling, or packing purposes.

(11) "Motorized vehicle" means any vehicle, including snowmobiles, that is motor-propelled, and any vehicle that is propelled by electric power, except motorized wheelchairs used by persons with disabilities, and electric personal assistive mobility devices (EPAMDs).

(12) "Parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(13) "Pet" means a dog, cat, or any animal that has been domesticated, except livestock.

(14) "Possession" means exercising direct physical control or dominion, with or without ownership, over weapons, traps, nets or other property, or archeological, cultural, or natural resources.

(15) "Road" means a road wholly or partly within or adjacent to and serving department-owned or controlled public lands, waters, or access areas under the jurisdiction of the department.

(16) "Snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow and having a curb weight of not more than 1,000 pounds (450 kg), driven by a track or tracks in contact with the snow or ice and steered by a ski or skis on contact with the snow or ice.

(17) "Tracer bullet or shell" means a bullet, projectile, or shell that traces its own course in the air with a trail of smoke, chemical incandescence, or fire, so as to facilitate adjustment of the aim.

(18) "Vessel" means any craft that is used or is capable of being used as a means of transportation on or under water or ice, including but not limited to powerboats, cruisers, houseboats, sailboats, airboats, hovercraft, rowboats, canoes, kayaks, seaplanes, or other personal watercraft. This also includes buoyant devices permitting or capable of free flotation.

NEW SECTION

WAC 232-13-040 Aircraft. Except as authorized by the director or the director of the department of natural resources, it is unlawful to land aircraft on lands owned, leased, or controlled by the department, except in the case of a bona fide emergency.

NEW SECTION

WAC 232-13-050 Behavior and conduct. (1)(a) It is unlawful to engage in disorderly conduct on department-owned or controlled public lands, waters, or access areas.

(b) For the purposes of this subsection, "disorderly conduct" means conduct that unreasonably disturbs the repose of other persons lawfully using these lands, waters, or access areas; or is of a loud, threatening, insulting, boisterous, or abusive nature towards other persons, creating a risk of assault, fight, or riot; or by its indifference to or disregard for public safety, warrants alarm for the safety or well-being of others.

(2)(a) It is unlawful to engage in activities that violate quiet hours on department-owned or controlled public lands or access areas that are designated for camping.

(b) The term "activities that violate quiet hours," as used in this section, means engaging in loud and boisterous conduct or the playing of radios, musical instruments, sound, or music systems, or the activating of sound producing electronic or mechanical devices in the camping area, between 10:00 p.m. and 6:00 a.m.

(3)(a) It is unlawful to possess or dispense beer or malt liquor in quantities subject to keg registration laws and regulations of the liquor control board on department-owned or controlled public lands, waters, or access areas.

(b) It is unlawful to hold, sponsor, or attend an event requiring a banquet permit (chapter 314-18 WAC) from the liquor control board on department-owned or controlled public lands, waters, or access areas without a permit from the director.

(4) It is unlawful to use department-owned or controlled public or private lands, waters, or access areas in a manner or for a purpose contrary to signs or notices posted on those lands, waters, or access areas. This subsection also applies to private lands that are under management or access agreement with the department.

NEW SECTION

WAC 232-13-060 Camping. (1) It is unlawful to establish or occupy a camp on department-owned or controlled public lands, waters, or access areas in excess of fourteen days within a thirty-day period, except where designated by the director or when allowed by posted notice.

(2) It is unlawful to establish or occupy a residence camp on department-owned or controlled public lands, waters, or access areas. For purposes of this section, a residence camp is an encampment, occupancy, or presence on department-owned or controlled public lands, waters, or access areas that is the principal place of residence for the person or occupant.

(3) A residence camp on department-owned or controlled public lands, waters, or access areas is declared to be a public nuisance and may be abated by the department without notice or process.

NEW SECTION

WAC 232-13-070 Commercial use or activity. (1) It is unlawful to use department-owned or controlled public lands, waters, or access areas for any commercial purposes, includ-

ing but not limited to the placement of bee hives, collecting mushrooms or plants or plant parts; guiding or outfitting hunters, anglers, or whitewater rafters; or sales or services, without a permit from the director.

(2) It is unlawful to sponsor, conduct, or hold a private or public event, race, regatta, contest, rally, rodeo, equestrian event involving more than five animals, shooting match, sporting clay competition, outdoor music festival, jamboree, field trial, hunting or fishing contest, or other similar public gathering or event on department-owned or controlled public lands, waters, or access areas without a permit from the director.

NEW SECTION

WAC 232-13-080 Dumping and sanitation. (1) It is unlawful for any person to throw, drop, or leave any discarded object, garbage, debris, or waste upon any of the properties owned, leased, or controlled by the department except into a litter or garbage receptacle or container installed for that purpose on such property. In addition, it is unlawful to pollute, or in any way contaminate by dumping or otherwise depositing therein, any waste or refuse of any nature, kind, or description, including human or animal bodily waste, into any stream, river, lake, or other body of water running in, through, or adjacent to any department-owned or controlled public lands, waters, or access areas.

(2) It is unlawful to burn trash on department-owned or controlled public lands, waters, or access areas.

(3) It is unlawful to drain or dump refuse or waste from any trailer, camper, automobile, other vehicle, or vessel on department-owned or controlled public lands, waters, or access areas.

(4) Except for department-owned vehicles or vehicles used by the department for department administration, it is unlawful to clean or wash any automobile, vessel, or other vehicle on department-owned or controlled public lands, waters, or access areas, except at designated areas and times for invasive species control and prevention.

NEW SECTION

WAC 232-13-090 Enforcement. (1) Fish and wildlife officers and ex officio fish and wildlife officers are authorized to control traffic and activities on department-owned or controlled public lands, waters, or access areas. Such officers shall have the authority to remove persons from these department-owned or controlled public lands, waters, or access areas who have violated the law or failed to obey department regulations.

(2) It is unlawful to fail, neglect, or refuse to obey the directions of such officers regarding use of department-owned or controlled public lands, waters, or access areas.

NEW SECTION

WAC 232-13-100 Erecting structures on WDFW lands. (1)(a) It is unlawful to erect, establish, use, or occupy a permanent or temporary structure on department-owned or controlled public lands, waters, or access areas without a permit from the director.

(b) This provision does not apply to a tent or other temporary structure established as part of a camp. Such tents or temporary structures must be entirely removed at the end of the trip or season being hunted by the occupants of the camp. A structure may in no case remain more than fourteen days within a thirty-day period, unless otherwise posted. This provision does not apply to certain hunting blinds. Hunting blinds are defined for purposes of this section as temporary structures made entirely of natural materials and that do not use metal, cement, furniture, wire, rope, twine, plastic, or lumber in their construction. Portable hunting blinds that are designed to be removed and are removed at the end of the hunting day may be used.

(c) Unauthorized or unlawful permanent or temporary structures or hunting blinds may be declared to be public nuisances and may be removed by the department without notice or process.

(2)(a) It is unlawful to dig, use, or occupy a pit-type hunting blind on department-owned or controlled public lands, waters, or access areas except when such pit-type hunting blinds are established by the department or are authorized by a permit from the director.

(b) It is unlawful to attempt to exercise the provisions of an expired permit issued under this section by the director or to fail to obey the terms and conditions of a permit issued under this section by the director.

(c) It is unlawful to assert or attempt to assert a claim of exclusive occupancy on department-owned or controlled public lands, waters, or access areas unless such claim is supported or authorized by a permit from the director.

NEW SECTION

WAC 232-13-110 Firearms and target practicing.

(1)(a) It is unlawful to discharge tracer or incendiary ammunition or projectile devices on department-owned or controlled public lands, waters, or access areas.

(b) It is unlawful to discharge firearms in those portions of department-owned or controlled public lands, waters, or access areas where or when such discharge is prohibited by posted notice or from or within five hundred feet of a designated campground.

(c) It is unlawful to fail to remove expended shell casings, ammunition packaging, or other related target debris when target practicing on department-owned or controlled public lands, waters, or access areas at the conclusion of the target practice session and prior to departure from the area. Failure to remove any debris constitutes littering.

(d) The use of glass, signs, appliances, mattresses, TVs, furniture, cans, and exploding items as targets in target practicing are prohibited.

(2) The department may designate locations and times for target practice.

NEW SECTION

WAC 232-13-120 Fireworks. Except for legal firearms, it is unlawful to discharge or possess fireworks, model rockets, or other devices containing any explosive or flammable compounds on department-owned or controlled public lands, waters, or access areas.

NEW SECTION

WAC 232-13-130 Land and road closures. (1) The director may close or restrict access to department-owned or controlled public lands, waters, or access areas by an emergency or other permanent regulation on a seasonal, emergent, or permanent basis to protect human safety, for the protection of vulnerable fish and wildlife resources or habitats, or big game feeding stations, or to protect department or other infrastructure from damage or abuse.

(2) It is unlawful to enter or remain on department-owned or controlled public lands, waters, or access areas or portions thereof when such restrictions are in place or are established by posted notice.

NEW SECTION

WAC 232-13-140 Regulating public access. (1) The department may control public access and hunting methods on certain department-owned or controlled lands, waters, or access areas to increase wildlife use, improve hunter success and manage wildlife viewing opportunities. Public access may be controlled by limiting the number of users on the areas, limiting the number of days per week the areas can be hunted, and/or limiting the days of the week or hours of the day that the public can access the areas during the hunting season. Hunting methods may be controlled by such means as limiting the number of shotshells in possession or regulating the use of decoys.

(2) It is unlawful to enter or remain on department-owned or controlled public lands, waters, or access areas or portions thereof when such restrictions are in place or are established by posted notice.

NEW SECTION

WAC 232-13-150 Livestock. (1) It is unlawful for any person to allow livestock to be unattended or to graze or utilize department-owned or controlled public lands, waters, or access areas without a permit from the director.

(2) In addition to other penalties provided by law, any such person shall be liable to the department for a compensatory fee of five dollars per head of livestock per day.

(3) It is unlawful to fail to pay the compensatory fees assessed by the department pursuant to this section.

NEW SECTION

WAC 232-13-160 Parking. (1)(a) It is unlawful to park or leave a vehicle unattended for more than five days on department-owned or controlled public lands or access areas without a permit from the director.

(b) It is unlawful to leave a motor vehicle or trailer parked or standing on department-owned or controlled public lands or access areas when the vehicle is blocking access to a boat ramp, roadway, gate, or driveway or otherwise prevents egress or ingress to a department facility.

(c) Vehicles unlawfully parked, standing, or abandoned on department-owned or controlled public lands or access areas may be impounded by a fish and wildlife officer or ex officio fish and wildlife officer.

(2) It is unlawful to site, park, emplace, or install a mobile or modular home on department-owned or controlled public lands, waters, or access areas except when authorized by a permit from the director. Such unauthorized or unlawful mobile or modular homes are declared to be public nuisances and may be removed by the department without notice or process.

(3) Vehicles, vessels, motor homes, and trailers parked or abandoned for more than fourteen consecutive days within a thirty-day period on department-owned or controlled public lands, waters, or access areas are declared to be public nuisances and may be impounded by a fish and wildlife officer or ex officio fish and wildlife officer without notice or process.

(4) It is unlawful to moor a houseboat, other floating occupancy structure, or dock for more than seventy-two hours on department-owned or controlled public lands, waters, or access areas without a permit from the director. Such unauthorized or unlawful boats, houseboats or other floating structures are declared to be public nuisances and may be removed by the department without notice or process.

NEW SECTION

WAC 232-13-170 Pets. (1) The department may prohibit or regulate pets, except for bona fide service dogs for persons with disabilities, on department-owned or controlled public lands, waters, or access areas.

(2) It is unlawful for any person to leave pets unattended on department-owned or controlled public lands, waters, or access areas.

(3)(a) It is unlawful to cause or allow a dog to roam freely on department-owned or controlled public lands, waters, or access areas, from April 1 through August 31, except in designated areas.

(b) It is unlawful to cause or allow a dog to roam freely on designated access sites or within two hundred yards of a designated campground on department-owned or controlled public lands.

NEW SECTION

WAC 232-13-180 Resource removal. (1)(a) Except for down dead wood collected for camping on department lands, it is unlawful to remove timber, wood, soils, minerals, fossils, plants, plant seeds or other property or artifacts from department-owned or controlled public lands, waters, or access areas without a permit from the director.

(b) Unlawful removals valued at over two hundred fifty dollars constitute theft under chapter 9A.56 RCW.

(2) It is unlawful to collect shed antlers on department-owned or controlled public lands, waters, or access areas from February 15 through April 30.

NEW SECTION

WAC 232-13-190 Vehicle use. Except for permitted use by persons with disabilities, it is unlawful to possess or operate any motorized vehicle, including snowmobiles, on or across public lands, waters, or access areas owned or controlled by the department, except on roads, unless posted oth-

erwise. This section also applies to private lands that are under management or access agreement with the department.

NEW SECTION

WAC 232-13-200 Penalties. Except as provided in the "vehicle use" section, WAC 232-13-190, violation of any of the provisions of this chapter constitutes a violation of RCW 77.15.230, unlawful use of department-owned or controlled lands.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-12-174	Domestic animals on department lands.
WAC 232-12-177	Vehicles using department lands.
WAC 232-12-184	Aircraft—Authorized use on department lands.
WAC 232-12-187	Access areas—Other department lands—Wildlife agent to control traffic thereon.
WAC 232-12-251	Removal of minerals, wood and artifacts from department lands.

WSR 07-09-089
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed April 18, 2007, 10:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-04-080.

Title of Rule and Other Identifying Information: WAC 232-12-061 Tagging requirements of big game animals and turkeys.

Hearing Location(s): Mirabeau Park Hotel & Convention Center, 1100 North Sullivan Road, Spokane Valley, WA 99037, on June 2, 2007, at 1:00 p.m.

Date of Intended Adoption: August 4, 2007.

Submit Written Comments to: Lori Preuss, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail preuslmp@dfw.wa.gov, fax (360) 902-2155, by May 15, 2007.

Assistance for Persons with Disabilities: Contact Susan Yeager by TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The current rule on this subject is unclear regarding tagging requirements for black bear and cougar. This rule will clarify the tagging requirements for these animals.

Reasons Supporting Proposal: This rule will make it easier for hunters to comply with the tagging requirements for black bear and cougar, and it will facilitate enforcement of the rule.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Lori Preuss, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Dave Ware, 1111 Washington Street, Olympia, (360) 902-2509; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not impacted by this rule and will not be impacted by the proposed clarification of the rule.

A cost-benefit analysis is not required under RCW 34.05.328. These proposals do not affect hydraulics.

April 18, 2007

Loreva M. Preuss
Rules Coordinator

AMENDATORY SECTION (Amending Order 97-168, filed 8/25/97, effective 9/25/97)

WAC 232-12-061 Tagging requirements. It is unlawful for a person who kills a big game animal or turkey to fail to immediately cut out and completely remove from ~~((their))~~ his or her tag the designated notches corresponding to the day and month of the kill for that species ~~((except for black bear or cougar, where for purposes of achieving species harvest management goals,))~~ (unless the tagging requirement is specifically exempted by the fish and wildlife commission ((determines that tags are not required for these two big game animals. A person who kills such animal or bird, shall))), and to fail to immediately attach ~~((their))~~ his or her notched tag to the carcass of such animal or bird. That tag must remain attached to the carcass while it is being transported and must remain with the wildlife during the period of retention of the edible parts.

WSR 07-09-090
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed April 18, 2007, 10:27 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Office of drinking water fees, WAC 246-290-990 Water system evaluation and project review and approval fees.

Hearing Location(s): Department of Health, Point Plaza East, Conference Room 152, 310 Israel Road S.E., Tumwater, WA 98504, on June 11, 2007, at 1:00 p.m.

Date of Intended Adoption: June 26, 2007.

Submit Written Comments to: Theresa Phillips, Office of Drinking Water, P.O. Box 47822, Olympia, WA 98504-7822, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-3147, by June 11, 2007.

Assistance for Persons with Disabilities: Contact Theresa Phillips by June 4, 2007, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Fees support public health activities in the office of drinking water and need to be adjusted to compensate for the inflationary costs of administering the program. This proposal will increase fees by the 2007 fiscal growth factor cap of 3.38% as set under RCW 43.135.055 by the state expenditure limit committee.

Reasons Supporting Proposal: Fee adjustments are necessary to guarantee sufficient revenue to fulfill the department's public health protection obligations.

Statutory Authority for Adoption: RCW 43.70.250 and 43.20B.020.

Statute Being Implemented: RCW 43.70.250 and 43.20B.020.

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

Name of Proponent: Washington state department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Theresa Phillips, P.O. Box 47822, Olympia, WA 98504-7822, (360) 236-3147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of the Regulatory Fairness Act.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(vi), rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of RCW 34.05.328.

April 16, 2007
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 07-02-025B, filed 12/22/06, effective 1/22/07)

WAC 246-290-990 Water system evaluation and project review and approval fees. (1) The fees for the review and approval of water system plans, project reports, construction documents, existing systems, and related evaluations required under chapters 246-290, 246-291, 246-293, 246-294, and 246-295 WAC are:

(a) Water system plans required under WAC 246-290-100, 246-290-105, 246-291-140, 246-293-220, and 246-293-230.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Water system plan (New and Updated)	\$((134)) <u>138</u>	\$((475)) <u>491</u>	\$((1,167)) <u>1,206</u>	\$((2,206)) <u>2,280</u>	\$((3,584)) <u>3,705</u>	\$((5,305)) <u>5,484</u>
Minor water system plan alteration	\$((30)) <u>31</u>	\$((112)) <u>115</u>	\$((284)) <u>293</u>	\$((547)) <u>565</u>	\$((889)) <u>919</u>	\$((1,305)) <u>1,349</u>

(b) Satellite management agency (SMA) plans for Group A and Group B water systems required under WAC 246-295-040.

Project Type	Total Active or Approved Services				
	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
SMA plan for ownership (New and Updated)	\$((475)) <u>491</u>	\$((1,167)) <u>1,206</u>	\$((2,206)) <u>2,280</u>	\$((3,584)) <u>3,705</u>	\$((5,305)) <u>5,484</u>
SMA approval amendment	\$((99)) <u>102</u> per hour or appropriate fee from category above, whichever is less				
SMA plan for operation only (New and Updated)	\$((1,167)) <u>1,206</u>	\$((1,167)) <u>1,206</u>	\$((1,167)) <u>1,206</u>	\$((1,167)) <u>1,206</u>	\$((1,167)) <u>1,206</u>

Note: SMAs owning water systems and submitting planning documents to the department for review shall be charged only the SMA fee.

(c) New plan elements required under WAC 246-290-100, 246-290-105, 246-290-125, 246-290-132, 246-290-135, 246-290-691, and 246-291-140 including:

(i) Water use efficiency; and

(ii) Wellhead protection, shall be reviewed separately by the department and the fee assessed shall reflect the time spent for this review and shall be calculated based on ~~((ninety-nine))~~ one hundred two dollars per hour. After the initial submittal, updated information shall be reviewed as part of the updated water system plan and the review fee shall

be included in the applicable updated plan review fee listed under (a) or (b) of this subsection.

(d) Project reports required under WAC 246-290-110 and design reports required under WAC 246-291-120.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
All types of filtration or other complex treatment processes	\$((337)) 348	\$((687)) 710	\$((1,067)) 1,103	\$((1,546)) 1,598	\$((2,132)) 2,204	\$((2,827)) 2,922
Chemical addition only, such as ion exchange, hypochlorination, or fluoridation	\$((99)) 102	\$((199)) 205	\$((337)) 348	\$((508)) 525	\$((719)) 743	\$((962)) 994
Complete water system (an additional fee shall be assessed for review of treatment facility, if any)	\$((199)) 205	\$((475)) 491	\$((753)) 778	\$((1,100)) 1,137	\$((1,513)) 1,564	\$((1,994)) 2,061
System modifications requiring a detailed evaluation to determine whether the system, as modified, will comply with regulations (an additional fee shall be assessed for review of treatment facility, if any)	\$((134)) 138	\$((337)) 348	\$((547)) 565	\$((824)) 851	\$((1,167)) 1,206	\$((1,573)) 1,626

Note: In accordance with WAC 246-290-125, project reports are not required for minor projects that are described in sufficient detail in an approved water system plan, and have been reviewed as part of the process for approving the water system plan.

(e) Special reports or plans required under WAC 246-290-230, 246-290-235, 246-290-250, 246-290-470, 246-290-636, 246-290-640, 246-290-654, 246-290-676, 246-291-230 including:

- (i) Corrosion control recommendation report;
- (ii) Corrosion control study;
- (iii) Plan to cover uncovered reservoirs;
- (iv) Predesign study;

- (v) Uncovered reservoir plan of operation;
- (vi) Tracer study plan;
- (vii) Surface water or GWI treatment facility operations plan;
- (viii) Filtration pilot study; or
- (ix) GWI determination reports, shall be reviewed by the department and the fee assessed shall reflect the time spent for this review and shall be calculated based on ~~((ninety-nine))~~ one hundred two dollars per hour.

(f) Construction documents required under WAC 246-290-120 and design reports required under WAC 246-291-120.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
All types of filtration or other complex treatment processes	\$((337)) 348	\$((687)) 710	\$((1,067)) 1,103	\$((1,546)) 1,598	\$((2,132)) 2,204	\$((2,827)) 2,922
Chemical addition only, such as ion exchange, hypochlorination, or fluoridation	\$((99)) 102	\$((199)) 205	\$((337)) 348	\$((508)) 525	\$((719)) 743	\$((962)) 994
Complete new water system except treatment (an additional fee shall be assessed for review of treatment facility, if any)	\$((272)) 281	\$((613)) 633	\$((889)) 919	\$((1,238)) 1,279	\$((1,654)) 1,709	\$((2,132)) 2,204
New source only (an additional fee shall be assessed for review of treatment facility, if any)	\$((199)) 205	\$((370)) 382	\$((508)) 525	\$((687)) 710	\$((889)) 919	\$((1,134)) 1,172
One or more of the following submitted as a package and not requiring a detailed evaluation as determined by the department: Water line installation, booster pump station, modifications to source pumping, piping-valving, controls or storage reservoir (an additional fee shall be assessed for review of treatment facility, if any)	\$((134)) 138	\$((234)) 241	\$((370)) 382	\$((547)) 565	\$((753)) 778	\$((994)) 1,027

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Documents submitted for projects such as water line installation, booster pump stations, modifications to source pumping, piping/valving, controls or storage reservoirs as determined by the department where such projects:						
Comply with design standards established by the department;						
Are prepared by a professional engineer in accordance with WAC 246-290-040; and						
Do not require a detailed evaluation by the department.	\$((62)) 64	\$((115)) 118	\$((192)) 198	\$((272)) 281	\$((377)) 389	\$((496)) 512

(g) Existing system approval required under WAC 246-290-140 and 246-291-130. For the purpose of this subsection the department shall determine whether a system is expanding or nonexpanding.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
NONEXPANDING system not requiring a detailed evaluation by the department	\$((260)) 268	\$((522)) 539	\$((785)) 811	\$((1,048)) 1,083	\$((1,311)) 1,355	\$((1,573)) 1,626
NONEXPANDING system requiring a detailed evaluation as determined by the department	\$((391)) 404	\$((785)) 811	\$((1,189)) 1,229	\$((1,573)) 1,626	\$((1,968)) 2,034	\$((2,362)) 2,441
EXPANDING system not requiring a detailed evaluation by the department	\$((522)) 539	\$((1,048)) 1,083	\$((1,573)) 1,626	\$((2,099)) 2,169	\$((2,626)) 2,714	\$((3,150)) 3,256
EXPANDING system requiring a detailed evaluation as determined by the department	\$((654)) 676	\$((1,311)) 1,352	\$((1,968)) 2,034	\$((2,626)) 2,714	\$((3,281)) 3,391	\$((3,939)) 4,072

(h) Monitoring waivers requested under WAC 246-290-300.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Inorganic chemical monitoring waiver	Not applicable	\$((86)) 88 per source	\$((119)) 123 per source	\$((150)) 155 per source	\$((182)) 188 per source	\$((214)) 221 per source
Organic chemical monitoring waiver	Not applicable	\$((156)) 161 per source	\$((219)) 226 per source	\$((285)) 294 per source	\$((348)) 359 per source	\$((412)) 425 per source
Use waiver	Not applicable	\$((187)) 193 per source	\$((252)) 260 per source	\$((324)) 334 per source	\$((380)) 392 per source	\$((444)) 459 per source
Area wide waiver renewal	Not applicable	\$((187)) 193 per source	\$((233)) 240 per source	\$((278)) 287 per source	\$((324)) 334 per source	\$((357)) 369 per source
Inorganic chemical monitoring waiver renewal	Not applicable	\$((47)) 48 per source	\$((60)) 62 per source	\$((73)) 75 per source	\$((86)) 88 per source	\$((99)) 102 per source
Organic chemical monitoring waiver renewal	Not applicable	\$((92)) 95 per source	\$((131)) 135 per source	\$((171)) 176 per source	\$((208)) 215 per source	\$((246)) 254 per source
Use waiver renewal	Not applicable	\$((131)) 135 per source	\$((176)) 181 per source	\$((219)) 226 per source	\$((265)) 273 per source	\$((310)) 320 per source
Coliform monitoring waiver including departmental inspection requested by purveyor	Not applicable	\$((401)) 414	\$((496)) 512	\$((631)) 652	\$((803)) 830	Not applicable
Coliform monitoring waiver with third-party inspection report	Not applicable	\$((124)) 128	\$((124)) 128	\$((124)) 128	\$((124)) 128	Not applicable

(i) Other evaluations and approvals. As applicable, these fees will be charged in addition to the basic fees assessed under (a) through (h) of this subsection.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Well-site evaluation and approval including the site inspection and hydrogeologic information review.	\$((199)) <u>205</u>	\$((299)) <u>309</u>	\$((352)) <u>363</u>	\$((437)) <u>451</u>	\$((547)) <u>565</u>	\$((687)) <u>710</u>
Regulatory monitoring plan ¹	No plan required	\$((192)) <u>198</u>	\$((260)) <u>268</u>	\$((326)) <u>337</u>	\$((394)) <u>404</u>	\$((456)) <u>471</u>
Unfiltered system annual comprehensive report	Not applicable	\$((394)) <u>404</u>	\$((654)) <u>676</u>	\$((947)) <u>947</u>	\$((1,179)) <u>1,218</u>	\$((1,441)) <u>1,489</u>
Water system compliance report	\$((112)) <u>115</u>	\$((112)) <u>115</u>	\$((112)) <u>115</u>	\$((112)) <u>115</u>	\$((112)) <u>115</u>	\$((112)) <u>115</u>

¹A comprehensive document containing coliform, inorganic chemical and organic chemical monitoring plans in accordance with WAC 246-290-300.

(2) To determine the appropriate fee for a noncommunity system, calculate the service equivalent by taking the average population served each day of operation and dividing by twenty-five for a transient noncommunity (TNC) system and two and one-half for nontransient noncommunity (NTNC) system. Use the number of service equivalents to find out what Group A size category to look under and submit the appropriate fee. (All noncommunity systems are Group A systems as described in WAC 246-290-020.)

(3) Additional review and approval fees may be assessed as follows:

(a) The basic fee covers an evaluation, or the review of an initial submittal and one resubmittal if required. If additional resubmittals are required, an additional twenty-five percent of the original fee will be assessed for each additional resubmittal. For water system plan and SMA plan preparation the basic fee also covers a preplanning conference (~~When the department is asked to participate in other meetings involving the plan such as community meetings, public hearings, or meetings with elected officials, the department is authorized to charge additional fees at the rate of ninety-nine dollars per hour~~);

(b) Fees for department project approval based on local technical review will be determined on a case-by-case basis as outlined in the applicable memorandum of understanding between the department and the respective local agency;

(c) Fees may be assessed for services which the department determines are not described under subsection (1) of this section, will be calculated based on a rate of ~~((ninety-nine))~~ one hundred two dollars per hour.

Examples of these services include, but are not limited to:

- (i) Review and inspection of water reuse projects;
- (ii) Collection of water quality samples requested by purveyor;
- (iii) Review of alternate technologies requested by purveyor, manufacturer or authorized representative;
- (iv) Sanitary surveys, including the time spent as part of the annual on-site inspections for systems under WAC 246-290-690(3) that is in addition to the time necessary to assess watershed control and disinfection treatment;
- (v) Well field designs; or

(vi) Transfers of ownership under WAC 246-290-035 or 246-294-060.

(d) Additional fees assessed by the department shall be billed to the purveyor using an itemized invoice.

(4) If the legislature revises the water system operating permit fee under RCW 70.119A.110 to incorporate into it one or more fees for service currently assessed separately under this section, and the purveyor has paid that consolidated fee, the department shall not assess or collect a separate fee under this section for any such service.

(5) All fees required under this section except as noted in subsection (3) of this section, shall be submitted prior to the department's approval. Payment of fees shall be in the form of a check or money order made payable to: The Department of Health, P.O. Box 1099, Olympia, Washington 98507-1099. Payment of a fee shall not guarantee approval of the submitted document or evaluation request.

(6) Purveyors unable to determine the appropriate fee payment to submit should contact the department.

WSR 07-09-094
PROPOSED RULES
SECRETARY OF STATE
 (Elections Division)
 [Filed April 18, 2007, 10:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-04-086.

Title of Rule and Other Identifying Information: A variety of issues are addressed by these rules including recounts, signature verification, motor voter, election reports, and voter intent.

Hearing Location(s): 520 Union Avenue, Olympia, 98504, on May 23, 2007, at 2:30 p.m.

Date of Intended Adoption: May 24, 2007.

Submit Written Comments to: Amber Cervantes, P.O. Box 40220, Olympia, 98504, e-mail acervantes@secstate.wa.gov, fax (360) 586-5629, by May 22, 2007.

Assistance for Persons with Disabilities: Contact Amber Cervantes by May 22, 2007, TTY (800) 422-8683.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules:

- Adopt recount procedures;
- Develop an approval process for automated signature verification;
- Update motor voter processes;
- Changes the number of required hours provided by orientation training; and
- Permanently adopts the current emergency rules regarding voter intent.

Reasons Supporting Proposal: These rules will adopt the processes and procedures counties followed during the 2004 gubernatorial recounts. Additional rules on the above topics are necessary for upcoming elections. RCW 29A.40.110 allows for use of an automated signature verification system upon approval of the secretary of state. Rules defining an approval process are necessary.

Statutory Authority for Adoption: RCW 29A.04.611.

Statute Being Implemented: RCW 29A.40.110.

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

Name of Proponent: Secretary of state, elections division, governmental.

Name of Agency Personnel Responsible for Drafting: Amber Cervantes, Legislative Building, Olympia, Washington, (360) 902-4165; Implementation and Enforcement: Katie Blinn, Legislative Building, Olympia, Washington, (360) 902-4168.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

A cost-benefit analysis is not required under RCW 34.05.328.

April 17, 2007

Steve Excell

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-250-070 Forwarding ballots. (1) If the county auditor chooses to not forward ballots, the return envelope must clearly indicate the ballot is not to be forwarded and that return postage is guaranteed.

(2) If the county auditor chooses to forward absentee ballots, as authorized by RCW 29A.40.091, the county auditor must include with the ballot an explanation ((that is)) of qualifications necessary to vote and instructions substantially similar to the following:

((For each jurisdiction listed on the ballot, you must reside in the jurisdiction in order to vote for that office or issue.)) If you have changed your permanent residence address, please contact your county auditor to ensure the ballot you receive at future elections contains the races and issues for your residential address. If you have any questions about your eligibility to vote in this election, please contact your county auditor.

((This)) The above instructions and the explanation required by RCW 29A.40.091 may be provided on the ballot

envelope, on an enclosed insert, or on the ballot itself. Auditors must begin to provide the above instruction to voters no later than January 1, 2008. The county auditor must utilize postal service endorsements that allow:

(a) The ballots to be forwarded((=allow));

(b) The county auditor to receive from the post office the addresses to which ballots were forwarded((=)) and ((allow))

(c) The return of ballots that were not capable of being forwarded. ((If the above explanation is not provided to the voter, the return envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.))

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-250-130 Maintenance of an audit trail.

Each county auditor shall maintain an audit trail with respect to the processing of absentee ballots, which shall include, but not be limited to, the following:

(1) A record of the date each absentee ballot application was received, the date the ballot was mailed or issued, and the date the ballot was received;

(2) The number of absentee ballots issued and returned, by legislative and congressional district, for each primary and general election;

(3) A record of the disposition of each request for an absentee ballot that was not honored;

(4) A record of the disposition of each returned absentee ballot that was not counted;

(5) A record of the time and place each time the county canvassing board met ((to process absentee ballots)); and

(6) A documentation of the security procedures undertaken to protect the integrity of all ballots after receipt, including the seal numbers used to secure the ballots during all facets of the absentee ballot process~~((= and~~

~~((7) A reconciliation that all absentee ballots counted plus all absentee ballots rejected is equal to the total number of absentee ballots received)).~~

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-250-310 Notice of elections by mail. (1) A jurisdiction requesting that a special election be conducted entirely by mail, as authorized by RCW 29A.48.020, may include the request in the resolution calling for the special election, or may make the request by a separate resolution. Not less than ~~((forty))~~ forty-seven days prior to the date for which a mail ballot special election has been requested, the county auditor shall inform the requesting jurisdiction, in writing, whether the request is granted and, if not granted, the reasons why.

(2) In the event that a primary is to be conducted by mail, the auditor must notify the jurisdiction involved not later than ~~((forty-five))~~ seventy-nine days before the primary date.

(3) In addition to the information required in the notice of election published pursuant to RCW 29A.52.351 and 29A.52.311, a county auditor conducting an election by mail, ~~((whether for a single jurisdiction or the entire county))~~ including a county auditor that conducts every election by mail, must also state:

(a) That the election will be conducted by mail and regular polling places will not be open;

(b) The precincts that are voting by mail if it is only specific precincts rather than the entire county;

(c) The location where voters may obtain replacement ballots;

(d) ~~((The amount of))~~ That return postage is required ((on the return envelope));

(e) The dates, times and locations of designated deposit sites and sites for voting devices that are accessible to the visually impaired, including the county auditor's office as a polling place.

AMENDATORY SECTION (Amending WSR 06-02-028, filed 12/28/05, effective 1/28/06)

WAC 434-250-330 County auditor's office as a polling place. (1) For elections conducted entirely by mail, services that would have been provided at the polling place must, at a minimum, be provided at the county auditor's office, including provisional ballots. Such services must be provided beginning the date that ballots are mailed to voters, excluding Saturdays, Sundays, and legal holidays. Identification must be provided in compliance with RCW 29A.44.205 and WAC ~~((434-253-055))~~ 434-253-024, except in the case of replacement ballots as authorized by RCW 29A.48.040. If the auditor does not maintain poll books at the county auditor's office, the voter must sign a log sheet that includes the same information that would have appeared in a poll book.

(2) If the persons providing services at the county auditor's office are not employees of the county auditor's office but are persons appointed by the county auditor, the appointees must be representatives of different major political parties and must subscribe to an oath regarding the discharge of duties.

NEW SECTION

WAC 434-260-165 Response to draft special review recommendations. The county auditor or the county canvassing board must respond, in writing, to the draft election special review recommendations, listing the steps that have been taken or that will be taken to correct any problems listed in the report. Such a response shall be submitted to the review staff not later than ten days following the issuance of the draft special review report.

Nothing in this section shall prevent the review staff from modifying or amending its recommendations, based on the response received from the county auditor or canvassing board.

AMENDATORY SECTION (Amending WSR 06-14-050, filed 6/28/06, effective 7/29/06)

WAC 434-260-170 Distribution of special review recommendations and response. ~~((The county auditor and the county canvassing board may respond in writing to any recommendations made by the review staff. Such response shall not be made later than ten working days after the completion of the mandatory recount.))~~ The review staff shall, after the county auditor and county canvassing board have had an

opportunity to respond, provide a copy of its recommendations and any response to any person requesting them at actual reproduction costs. ~~((Nothing in this section shall prevent the review staff from modifying or amending its recommendations, based on the response received from the county auditor or county canvassing board.))~~ In the event the special review recommendations are modified or amended, only the final recommendations and any response by the county shall be made available for inspection and copying. In the event that the review staff does not modify or amend the draft recommendations within ~~((sixteen))~~ twenty-five working days from the completion of the mandatory recount, the draft recommendations shall be considered to be final recommendations and shall be made available for inspection and copying. A copy of the special review recommendations and any response shall be provided to the chairperson of the election administration and certification board and a copy shall also be kept on file by the secretary of state.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-240 Mandatory orientation. (1) All election administrators and assistant election administrators shall, within eighteen months of undertaking those responsibilities, attend a mandatory orientation workshop sponsored by the secretary of state to be eligible for certification. Mandatory orientation workshops will be offered for new election administrators and deputy election administrators annually.

(2) Mandatory orientation will consist of ~~((twelve))~~ at least eight hours of training in election-related subjects.

AMENDATORY SECTION (Amending WSR 06-11-042, filed 5/10/06, effective 6/10/06)

WAC 434-261-070 Manual inspection of ballots. (1) Upon receiving absentee ballots and upon breaking the seals and opening the ballot containers from the precincts, all voting positions on voted ballots shall be manually inspected on both sides of the ballot to determine whether the ballot ~~((with be))~~ is readable by the vote tabulating system. This manual inspection is a required part of processing ballots.

(2) The inspection of ballots tabulated at the poll site is not required provided that the poll site ballot programming provisions of RCW 29A.44.340 are in effect.

(3) If the manual inspection process detects any physically damaged ballots, unreadable ballots which might not be correctly counted by the tabulating equipment, or marks that differ from those specified in the voting instructions, ~~((but the marks clearly form a discernible and consistent pattern on the ballot to the extent that the voter's intent can be clearly determined.))~~ the county auditor ~~((may either:~~

(a) Refer the ballots to the county canvassing board; or
(b) Duplicate the ballots if authorized by the county canvassing board.

~~If the voter's intent is not clear, the ballot must be referred))~~ shall refer such ballots to the county canvassing board.

(4) Nothing in this section shall alter the authority of the county canvassing board to delegate in writing, to the county auditor or the county auditor's staff, the performance of any

task assigned by law to the canvassing board as set forth in RCW 29A.60.140(2).

AMENDATORY SECTION (Amending WSR 06-14-047, filed 6/28/06, effective 7/29/06)

WAC 434-261-075 Manual inspection of ballot—Acceptability of marks. (1) If the voter returns voting responses by mail on any form other than the ballot sent, the votes thereon shall be acceptable and tallied provided that:

(a) Only votes for offices or measures for which the voter is eligible are counted.

(b) The candidate or measure response position for which the voter is voting can be clearly identified.

(c) The ballot issued is not returned, or if returned, contains no marks indicating an attempt to vote it.

(d) A valid signature on ~~((an))~~ a signed absentee oath is ~~((on file with))~~ received by the county auditor.

The votes accepted must then be duplicated to a ballot that can be read by the electronic voting equipment.

(2) Corrected absentee ballots shall be counted in the following manner:

(a) If a voter follows the instructions for correcting a vote, either the written instructions or other instructions given to the voter by the county auditor, the correction shall be made by duplicating the ballot and then tabulating the duplicated ballot.

(b) If a voter appears to have corrected the ballot in a manner other than as instructed, the vote for that candidate or issue shall not be tabulated unless the voter provides written instructions directing how the vote should be counted or has clearly attempted to erase a mark.

(3) If a voter has indicated a write-in vote on the ballot which duplicates the name of a candidate who already appears on the ballot for the same office, the ballot shall be duplicated to count one vote for the candidate indicated. Such a vote shall be counted pursuant to RCW 29A.60.021.

(4) If a ballot contains marks that differ from those specified in the voting instructions, ~~((those marks shall not be counted as valid votes unless there is a discernable and consistent pattern, to the extent that the voter's intent can clearly be determined. If there is such a pattern, the ballot shall be duplicated to reflect the voter's intent))~~ the ballot shall be sent to the canvassing board to be counted as instructed by the statewide standards on determining voter intent manual required by WAC 434-261-086. The canvassing board shall make the final determination of voter intent on ballots that are not addressed by the statewide standards on determining voter intent.

NEW SECTION

WAC 434-261-086 Statewide standards on determining voter intent. (1) The secretary of state, pursuant to the provisions of the Help America Vote Act, shall prepare and distribute to each county canvassing board a manual that defines what constitutes a vote and what must be counted as a vote for each category of voting system used in the state, consistent with state law and administrative rules. The manual shall contain reasonably comprehensive illustrations of

irregularly marked ballots and shall provide standards for determining whether or not a valid vote has been cast.

(2) The secretary of state shall periodically review the manual as necessary to keep it updated. Wherever practical, the secretary shall seek input from county canvassing boards and other interested parties to ensure that the manual remains as comprehensive as possible. The currently adopted manual shall be posted on the secretary of state web site (www.sec.state.wa.gov) for public review or reference.

(3) Compliance by county canvassing boards with the standards set forth in the manual is mandatory.

AMENDATORY SECTION (Amending WSR 06-14-046, filed 6/28/06, effective 7/29/06)

WAC 434-262-030 County auditor's abstract of votes. No later than the ~~((tenth))~~ fifteenth day following any primary or special election and the twenty-first day following any general election the county canvassing board shall meet and canvass all ballots. Upon completion of this canvass, the board shall direct the county auditor to prepare the auditor's abstract of votes as defined by WAC 434-262-010. The reconciliation of absentee and vote by mail ballots must include documentation that the number of ballots counted plus the number of ballots rejected is equal to the number of ballots received. In addition, county auditors must provide any additional information necessary to explain variances between the number of ballots counted compared to the number of ballots received and credited. The oaths and the reconciliation report must be substantially similar to the following:

Oath of County Auditor or Supervisor of Elections

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I solemnly swear that the returns of the (insert election) held on (insert date), in _____ County, State of Washington, have been in no way altered and that they are the same as when they were deposited in my office.

County Auditor or Supervisor of Elections

Subscribed and sworn to me this ___ day of (insert month, year).

Chairman, County Legislative Authority

Certification Reconciliation Report
_____ Election
(insert date)

County _____
Date of Completion _____

NOTE: Address confidentiality program participants must be included with service voters.

Registration

Total number of active registered voters in all precincts _____
Total number of inactive registered voters in all precincts _____
Total registered voters in all precincts _____

Total absentee ballots counted (includes absentee, VBM, federal write-in, overseas, out of state, and service ballots) _____

Total poll site ballots counted (includes poll site and provisional ballots) _____
Total Ballots counted _____

Absentee and VBM Ballots

The total number of absentee/VBM ballots originally issued _____
The total number of absentee/VBM ballots received _____
The total number of absentee/VBM ballots rejected _____
The total number of absentee/VBM ballots counted _____

Federal Write-In Ballots

The total number of federal write-in ballots counted _____

Out-of-State, Overseas, and Service Voters

The total number of out-of-state, overseas, and service voters' ballots issued _____

The total number of out-of-state, overseas, and service voters' ballots received _____

The total number of out-of-state, overseas, and service voters' ballots rejected _____

The total number of out-of-state, overseas, and service voters' ballots counted _____

Provisional Ballots

The total number of provisional ballots issued (by this county) _____

The total number of provisional ballots rejected (includes sending to other counties) _____

The total number of provisional ballots received from other counties _____

The total number of provisional ballots counted _____

Certification of the Canvassing Board

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

The undersigned officers designated by law as constituting the Canvassing Board for the County of _____, State of Washington, hereby certify that this is a full, true and correct copy of the Abstract of Votes including the cumulative results, precinct results, and a reconciliation report of votes cast at the (insert election) held on (insert date), in _____ County, State of Washington, and that the following are the true and reconciled numbers of voters and votes counted.

Witness our hands and official seal this _____ day of (insert month, year).

County Auditor or Supervisor of Elections

Chairman, County Legislative Authority

County Prosecuting Attorney

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-262-106	Machine recount of votes cast on direct recording electronic devices.
WAC 434-262-108	Manual recount of votes cast on direct recording electronic devices.

Chapter 434-264 WAC**RECOUNTS**NEW SECTION

WAC 434-264-005 Application. This chapter applies to all contests subject to a recount pursuant to chapter 29A.64 RCW and to manual and machine recounts unless otherwise noted. In addition, each county auditor must promulgate written procedures regarding the conduct of a recount.

NEW SECTION

WAC 434-264-010 Recount—Definition. A recount is the process for retabulating the votes for a specific office or issue on all valid ballots cast in a primary or election.

NEW SECTION

WAC 434-264-020 Recount—Restrictions. All questions of voter registration, voter qualification, and voter intent previously considered during the original count shall not be reconsidered during a recount of the original ballots.

However, if any ballots or votes are discovered during the recount process that were not originally counted, the ballots shall be presented to the county canvassing board in accordance with RCW 29A.60.021, and the county canvassing board shall determine whether such ballots are to be included in the recount.

Nothing in this section shall preclude the county canvassing board from canvassing a ballot or a vote not canvassed during the original or previous count.

NEW SECTION

WAC 434-264-030 Observers—Conduct. Observers must be permitted to witness activities associated with the recount.

Any questions or objections by observers must be directed toward the county canvassing board, supervisory personnel or another designated staff person present at the recount. Under no circumstance may an observer interrupt the recount process in objection to the decision to count or not count a ballot.

The county auditor shall provide a copy of any additional guidelines that are established by the county canvassing board to each observer.

The county canvassing board or its designated representative may ask any observer who is causing a disruption to the recount process to leave the area.

NEW SECTION

WAC 434-264-040 Observers—Designated. In addition to the admittance of two observers for each side of a recount as required by RCW 29A.64.041, a county canvassing board may request additional observers from each of the two major political parties, and if provided, those party observers may be stationed to observe each counting board's process and must be considered the official observers of the recount. One observer representing each candidate or the proponents or opponents to a measure may also be permitted to observe each counting board's process.

NEW SECTION

WAC 434-264-050 Observers—Priority. Priority for viewing space shall be given in the following order:

- (1) Candidates of the affected race or their designated representative or to the designated representative for the proponents and opponents of any measure;
- (2) Each candidates' or representatives' counsel;
- (3) Designated party observer;
- (4) Additional observers for the candidates or ballot measure proponents or opponents; and then
- (5) General public and media.

NEW SECTION

WAC 434-264-060 Machine recount of votes cast on direct recording electronic devices. Machine recounts must be conducted by reloading individual ballot data packs or cartridges. The county auditor must verify all data packs or cartridges have been loaded.

NEW SECTION

WAC 434-264-070 Manual recount of votes cast on direct recording electronic devices. (1) Written procedures to perform manual recounts of direct recording electronic devices must be promulgated by the county auditor. The procedures for manually tabulating results must be conducted using a process that includes the following elements:

- (a) A continuous paper record must be utilized in the audit; the paper record must not be cut into separate individual records; and
 - (b) If a paper record indicates a ballot has been canceled, the ballot must be exempt from the recount.
- (2) The county auditor must compare the hand recount results with the original results. The county auditor may take any necessary actions to investigate and resolve discrepancies.

NEW SECTION

WAC 434-264-080 Recount—Irregular votes. For optical and digital scan ballots in which voter intent was not previously determined, the validity of the vote will be deter-

mined according to the statewide standards on determining voter intent manual required by WAC 434-261-086.

The county canvassing board must make the final determination of voter intent on ballots referred to the county canvassing board not addressed by the statewide standards on determining voter intent.

NEW SECTION

WAC 434-264-090 Manual recount—Preparation.

Prior to beginning a manual recount, all ballots that were originally tabulated at the poll site must be inspected. All ballots must be sorted by precinct. If a results report can be produced by batch, ballots may be sorted by batch.

NEW SECTION

WAC 434-264-100 Manual recount—Counting boards. Each county auditor shall establish the number of counting boards to conduct the recount. Each board shall be comprised of no less than three members, made up of:

- (1) One representative from each of the two major political parties and one observer or staff person;
- (2) Two staff persons and one observer; or
- (3) Three staff persons.

NEW SECTION

WAC 434-264-110 Manual recount—Process. The counting board may only count the responses for one race or measure at a time. The following process to count the ballots shall be used during a recount.

- (1) Each counting board shall be given the ballots one precinct or batch at a time. The results from the original count shall not be given with the ballots.
- (2) The ballots shall be sorted into separate stacks for each of the candidates or side of a ballot measure. Additional stacks may be created for overvotes, undervotes, and write-ins.
- (3) Each stack of ballots must be counted at least twice to confirm the number of votes in each stack. The results of the count shall not be shared until both persons have counted the ballots.
- (4) Individual tallies for each stack shall be compared. If the counts match, the results shall be reported to the designated staff person and the results shall be compared to the results of the original count.
- (5) If the counts do not match, the ballots shall be counted by the same counting board one more time. If the counts still do not match, the discrepancy must be reported to the designated staff person and the ballots referred to another counting board.

NEW SECTION

WAC 434-264-120 Recount—Interruption. If the recount must be stopped prior to its completion for any reason, the ballots must be placed in secure storage until the resumption of the recount. The observers must be allowed to witness the sealing of the ballots and the recording of the seal numbers. Observers must also be allowed to witness the con-

firmation of the seal numbers at the resumption of the recount.

NEW SECTION

WAC 434-264-130 Recount—Completion. On completion of the recount:

- (1) The county auditor shall prepare an amended abstract of the recounted ballots for the county canvassing board. The amended abstract shall include a revised cumulative summary, as well as the votes cast in each precinct for the office or measure that was recounted.
- (2) The results must be formally reviewed and approved by the county canvassing board.
- (3) If the results of the manual count do not match the results of the original count, the county canvassing board shall verify all ballots have been recounted. The county canvassing board shall take all necessary steps to investigate and resolve any discrepancies.
- (4) The county canvassing board shall certify the amended abstract that, for each precinct, displays the results of the office that has been recounted. The new abstract shall be included in the amended certified canvass report.
- (5) Copies of the certified amended abstract will be distributed to the same persons or agencies as the original certified abstract of votes.
- (6) The amended certified canvass report must be available to the public by the next business day following the recount.
- (7) Interim reports of the recount may be published at the discretion of the county canvassing board.
- (8) If the recount involves ballots from more than one county, the secretary of state may require that amended abstracts be certified by each county canvassing board on a uniform date.

AMENDATORY SECTION (Amending WSR 05-24-039, filed 11/30/05, effective 12/31/05)

WAC 434-324-005 Definitions. As used in this chapter:

- (1) "Active status" means a designation assigned to voters with complete voter registration records signifying that the voter is eligible to vote.
- (2) "Applicant" means a person who has applied, or is applying, to become a registered voter in the state of Washington.
- (3) "Auditor" means "county auditor" and means the county auditor in a noncharter county or the officer in a charter county, irrespective of title, having the overall responsibility to maintain voter registration to conduct state and local elections.
- (4) "County election management system" means software used by county auditors to manage computer files pertaining to elections and includes, but is not limited to, voter registration records.
- (5) "County registration number" means a ~~((unique))~~ identifier assigned to each registered voter by the county auditor.
- (6) "Motor voter data" means computer information concerning an applicant that is common to both driver's license and voter registration records. This includes name, address,

date of birth, sex, the date of the application, the location of the office where the application was submitted, the applicant's driver's license number, the applicant's Social Security number (if provided), and the applicant's previous driver's license number if the applicant has changed names.

(7) "Extraction," as used in this chapter, means the creation of an electronic list of specific information from the entire official statewide voter registration data base.

~~((7))~~ (8) "Late registration absentee ballot" means an absentee ballot cast by a voter who registered pursuant to RCW 29A.08.145 after the close of the regular registration period.

~~((8))~~ (9) "Licensing agent" or "agent" means the employees serving the public at driver's licensing offices operated by the department of licensing.

(10) "New county" means a county in Washington state that a registered voter is moving to from another county within Washington state.

~~((9))~~ (11) "Previous county" means a county in Washington state that a registered voter lived in prior to moving to a new county.

~~((10))~~ (12) "Pending status" means a voter registration record is not yet complete, and the applicant is not yet a registered voter.

~~((11))~~ (13) "Pending cancellation" means the registered voter's registration record ~~((will))~~ must be canceled within a specified amount of time and he or she is not eligible to vote.

~~((12))~~ (14) "Registered voter" means any elector who has completed the statutory registration procedures established by Title 29A RCW.

~~((13))~~ (15) "Secretary" means secretary of state or any other person authorized by the secretary of state to act on his or her behalf.

~~((14))~~ (16) "State registration number" means a unique identifier assigned to each registered voter by the state, pursuant to RCW 29A.08.651.

MOTOR VOTER

NEW SECTION

WAC 434-324-190 Voter registration at driver license facilities. Pursuant to RCW 29A.08.340, a person may register to vote or transfer a voter registration when he or she applies for or renews a driver's license or state identification card.

NEW SECTION

WAC 434-324-200 Registration procedure. When processing each applicant at a driver's licensing office, the agent must inquire whether the applicant wishes to register to vote or transfer his or her voter registration address. If the applicant answers affirmatively, the agent shall present the voter a registration application prefilled with the voter's full name, address, and driver's license or identification number. In addition, the applicant shall provide the following information in writing:

(1) Residence address for voting purposes, if it is different from the address on the driver's license;

(2) Mailing address, if it is different from the voter registration residence address;

(3) Previous address at which he or she was registered to vote;

(4) Confirmation by checking the appropriate boxes that he or she is a United States citizen and will be eighteen years of age or older at the time of the next election; and

(5) Military status by checking the appropriate box on the application.

Additionally the applicant may optionally provide the following information in writing:

(a) Daytime phone number; and

(b) E-mail address.

NEW SECTION

WAC 434-324-210 Oaths and warnings. The agent must request that the applicant read the warning concerning fraudulent registration. The applicant must then sign the required oath including an attestation to his or her citizenship.

NEW SECTION

WAC 434-324-220 Transfer of information from the department of licensing to the secretary of state. The completed voter registration application forms must be transmitted by the department of licensing to the secretary of state at least once each week.

NEW SECTION

WAC 434-324-230 Weekly transmittal of data from the department of licensing to the secretary of state. Once each week, the motor voter data processing division of the department of licensing must electronically transmit that week's computer data record of the voter registration transactions to the secretary of state. There must be one record for each transaction, which must contain at least the following information: The name, address, date of birth, sex, and driver's license number of the applicant, the applicant's Social Security number (if provided), the applicant's previous driver's license number in the case of a name change, the date on which the application was submitted, and the location of the office at which the application was submitted.

NEW SECTION

WAC 434-324-240 Transfer of data, and reports from the secretary of state to the county auditors. Each week, the secretary of state must amend any computer record that requires an address for voting purposes that is different from the one supplied to the department of licensing. The computer records must then be sorted according to the county in which the voter applicant resides.

The secretary of state shall produce a list of voter transactions by county. This list shall be transmitted to each county and shall contain at least the voters' names, addresses, mailing addresses, and birthdates.

NEW SECTION

WAC 434-324-250 Transfer of voter registration forms to counties. The completed voter registration application forms must be sorted by county. These forms must then be shipped to the county auditors. This shipment must be made as soon as possible, no later than ten days after the secretary of state receives the motor voter data from the department of licensing. If there are no applications for a county the secretary of state shall immediately notify the county auditor.

NEW SECTION

WAC 434-324-260 Processing records received from the secretary of state. Whenever a county auditor receives a shipment of voter registration information from the secretary of state, the records shall be processed in a timely manner. Any voter registrations that the county auditor receives for a voter residing in another county shall be forwarded to the appropriate county auditor as soon as possible after receipt.

These records shall be processed by entering the applicant's information into the county auditor's local data base and sending the information to the statewide voter registration data base. A voter identification number, precinct codes, levy codes and any other information assigned to regular registrations shall be assigned to motor voter registrations.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 434-326-005	Authority and purpose.
WAC 434-326-010	Definitions.
WAC 434-326-015	Voter registration at driver license facilities.
WAC 434-326-020	Registration procedure.
WAC 434-326-025	Obtaining additional information from the applicant.
WAC 434-326-030	Oaths and warnings.
WAC 434-326-035	Cancellation of previous name registration.
WAC 434-326-040	Transfer of information from the department of licensing to the secretary of state.
WAC 434-326-045	Weekly transmittal of data from the department of licensing to the secretary of state.
WAC 434-326-050	Transfer of data, and reports from the secretary of state to the county auditors.
WAC 434-326-055	Transfer of voter registration forms to counties.

WAC 434-326-060	Processing records received from the secretary of state.
WAC 434-326-065	Reimbursement of county auditors and the department of licensing for routine transaction costs.
WAC 434-326-900	Reimbursement of county auditors and the department of licensing for costs associated with implementation of this chapter.

AMENDATORY SECTION (Amending WSR 06-14-050, filed 6/28/06, effective 7/29/06)

WAC 434-335-010 Certification of voting equipment. All voting systems, voting devices, and vote tallying systems must meet applicable federal standards and be certified and approved by the secretary of state before they can be used in Washington state pursuant to RCW (~~(29A.12.080 and meet the applicable federal standards)~~) 29A.12.020.

NEW SECTION

WAC 434-335-605 Initial application for approval. Any vendor requesting approval of an automatic signature verification system for use with a specific election management system must complete and submit an application to the secretary of state. The secretary of state shall coordinate its review of the system with the vendor and the participating county.

NEW SECTION

WAC 434-335-615 Examination of signature verification system. Prior to its use or purchase by any Washington county, an automated signature verification system must be reviewed and approved by the secretary of state for use with that county's particular election management system.

Prior to approval, an automated signature verification system must:

- (1) Be able to integrate with the election management system in use by the test county and the ballot accountability processes implemented by the county;
- (2) Have variable levels of confidence which the county may adjust and set to the level as subscribed by the secretary of state in the system's approval report; and
- (3) Provide a setting that must not accept a signature that an election worker with required signature training should not accept.

NEW SECTION

WAC 434-335-625 Signature verification system acceptance testing. An agreement by a county auditor to purchase a signature verification system is subject to that system passing an acceptance test that demonstrates the system is operating as it was when it was approved by the secretary of state. The minimum acceptance test standards are listed below.

(1) The version number of the signature verification software must be the same as the version number of the software approved by the secretary of state. Any hardware must be the same model number and contain the same version of firmware that is certified by the secretary of state.

(2) The county auditor must receive all training and manuals necessary for the proper operation of the system.

(3) The county auditor must perform a series of tests to verify that the software is not accepting signatures that the county auditor's trained signature verification personnel would not accept. The test should include the county auditor's own signature envelopes, and be run against the county auditor's election management system signatures.

(4) The county auditor must perform a series of tests to verify the system integrates with the county election management system and ballot accountability processes.

(5) The county auditor must include the secretary of state where the signature verification system is being integrated with an election management system that has not been previously approved for that system.

(6) When participation by the secretary of state is not required under these rules, the county auditor must certify the results of the acceptance tests to the secretary of state. The certification must include version numbers of hardware, software and firmware installed and tested and ballot accountability procedures which incorporate the signature verification system.

NEW SECTION

WAC 434-335-635 Signature verification system approval report. No more than fourteen days following the approval of an automated signature verification system, the secretary of state must issue a written approval report that specifies the approved use of the system and conditions of its use. The approval must include the prescribed setting for the confidence level for either accepting or rejecting signatures. Signature verification systems are only approved for use with election management systems included in the approval report.

WSR 07-09-095
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 17, 2007, 6:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-13-080.

Title of Rule and Other Identifying Information: Workers' compensation self insurance rules and regulations, chapter 296-15 WAC. This chapter governs employers who are permitted to self-insure their workers' compensation obligation pursuant to Title 51 RCW. This filing includes modification to existing sections regarding requirements for department-approved claims administrators.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501-5414, on June 13, 2007, at 9:30 a.m.

Date of Intended Adoption: August 22, 2007.

Submit Written Comments to: Margaret Conley, P.O. Box 44890, Olympia, WA 98504-4890, e-mail mcgm235@Lni.wa.gov, fax (360) 902-6977, by June 13, 2007, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Margaret Conley by June 1, 2007, TTY (800) 833-6388 or (360) 902-6906.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed modifications will allow for certified claims administrators to choose a continuing education option in lieu of retaking and passing the claims administrator test to recertify every five years. The current rule is being modified to include the option.

Reasons Supporting Proposal: The rule revisions were developed in conjunction with self-insured community stakeholders, at their request. The department hopes that the addition of a continuing education option will result in better-informed claims administrators, which will also benefit injured workers' with self-insured industrial insurance claims.

Statutory Authority for Adoption: RCW 51.04.020, 51.14.020, 51.32.190, 51.14.090, and 51.14.095.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jean Vanek, 243 Israel Road S.E., Tumwater, WA 98512, (360) 902-6907.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 296-15 WAC applies only to businesses that are certified to self-insure in Washington state. Per RCW 19.85.020(1), a business must have fifty or fewer employees to qualify as a small business under the Regulatory Fairness Act. The department reviewed the number of worker hours reported by each employer currently certified to self-insure, and no self-insured business has fewer than fifty employees. Therefore, no small business economic impact statement is required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Melissa Shah, P.O. Box 44320, Olympia, WA 98504-4320, phone (360) 902-5122, fax (360) 902-4249, e-mail shaz235@Lni.wa.gov.

April 17, 2007

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 06-06-066, filed 2/28/06, effective 4/1/06)

WAC 296-15-360 Qualifications of personnel. (1) How does an individual initially become a department-approved claims administrator?

((+)) In order to become a department-approved claims administrator, an individual must first have a minimum of

three years of experience in the administration of time loss claims under Title 51 RCW. The experience must have occurred within the five years immediately prior to the filing of the application.

An individual must then take and pass the department's "self-insurance claims administrator" test ~~((to be accepted as a department approved claims administrator. In order to be admitted to take this test, an individual must meet the following requirements:~~

~~(a))~~. After passing the test, an individual is designated a department-approved claims administrator. The initial designation of department-approved claims administrator is valid for five years.

(2) How does an applicant receive approval to take the test? To be approved to take the "self-insurance claims administration" test, an applicant must submit a completed application form to the department (Form F207-177-000). The application must be received by the department no less than forty-five days prior to the scheduled ((examination)) test date.

~~((b) Have a minimum of three years of experience in the administration of time loss claims under Title 51 RCW. The experience must have occurred within the five years immediately prior to the filing of the application.))~~

The department will review the application and determine if the applicant meets the minimum requirements to take the ~~((examination))~~ test. Notification of approval to take the test will be mailed to the applicant no less than fourteen days prior to the scheduled ~~((examination))~~ test date.

~~((#))~~ **(3) What happens when an applicant fails the test?** When an applicant fails the ((examination, he or she must submit another completed application requesting)) test, the applicant must reapply to take the ((examination)) test again. An applicant ((must wait)) will not be permitted to retake the test until six months have passed after ((a)) the failed result ((before retaking the examination)).

~~((2) The designation of department approved claims administrator is valid for five years or until an individual retakes the examination, whichever occurs first.))~~ The most recent ~~((examination))~~ test results will ~~((always reflect))~~ determine an individual's status as a claims administrator. ~~((To maintain approved status, an individual must:~~

~~(a) Make application))~~ **(4) How does a department-approved administrator maintain their approved status beyond the initial five-year designation?** An administrator may maintain approved status by:

(a) Retaking and passing the "self-insurance claims administrator" test as outlined in subsection (1) of this section; ((and)) or

(b) ~~((Pass the "self-insurance claims administrator" examination again.))~~ Providing documentation to the department that the individual has remained employed for a minimum of three of the last five years in the administration of, or the oversight of, claims under Title 51 RCW, and meeting the continuing education criteria.

To meet continuing education criteria, the administrator must submit verification to the department that a minimum of seventy-five credits have been obtained prior to lapse of the approved status. Extensions will not be granted.

Credits must be earned in the following categories:

- (i) Twenty claims process/procedure credits;
- (ii) Twenty legal credits;
- (iii) Twenty medical credits;
- (iv) Two ethics credits; and
- (v) Thirteen elective credits (e.g., industry-specific training).

The seventy-five credits must include any training designated as mandatory by the department. If an administrator fails to complete sufficient continuing education credits, he or she will be required to retake the written test.

Assignment of course credit will be determined by the department review committee.

(c) Individuals whose department-approved status expires between October 1, 2008, and September 30, 2012, and who exercise the continuing education option in lieu of retaking the test, must meet the following modified requirements. If the individual's certification expiration date falls between:

(i) 10/1/2008 - 3/31/2009: Earn a minimum of thirty credits (eight process/procedure credits, eight legal credits, eight medical credits, one ethics credit, and five elective credits);

(ii) 4/1/2009 - 9/30/2009: Earn a minimum of thirty-five credits (ten process/procedure credits, ten legal credits, ten medical credits, one ethics credit, and four elective credits);

(iii) 10/1/2009 - 3/31/2010: Earn a minimum of forty credits (eleven process/procedure credits, eleven legal credits, eleven medical credits, one ethics credit, and six elective credits);

(iv) 4/1/2010 - 9/30/2010: Earn a minimum of forty-five credits (twelve process/procedure credits, twelve legal credits, twelve medical credits, two ethics credits, and seven elective credits);

(v) 10/1/2010 - 3/31/2011: Earn a minimum of fifty credits (fourteen process/procedure credits, fourteen legal credits, thirteen medical credits, two ethics credits, and seven elective credits);

(vi) 4/1/2011 - 9/30/2011: Earn a minimum of fifty-five credits (fifteen process/procedure credits, fifteen legal credits, fifteen medical credits, two ethics credits, and eight elective credits);

(vii) 10/1/2011 - 3/31/2012: Earn a minimum of sixty credits (sixteen process/procedure credits, sixteen legal credits, sixteen medical credits, two ethics credits, and ten elective credits);

(viii) 4/1/2012 - 9/30/2012: Earn a minimum of sixty-five credits (eighteen process/procedure credits, eighteen legal credits, eighteen medical credits, two ethics credits, and nine elective credits).

(5) How does an approved administrator report earned continuing education credit to the department? Each department-approved administrator must track and report earned credits at the department's online data base. The approved administrator must obtain and retain signed verification of courses attended. Verification of earned credits must be received by the department by the date the approved administrator's certification expires. Extensions will not be granted.

The department may audit the reported credits of any approved administrator at random, or "for cause." Falsifica-

tion of reported credits will result in revocation of the individual's approved administrator status, and may result in the department's refusal of future applications to take the self-insurance claims administrator test.

(6) The department-approved claims administrator (~~is responsible for notifying~~) must notify the department within thirty calendar days of the effective date of ((any)) a change((s)) in ((his or her)) mailing address, work location, or ((employment status)) name.

WSR 07-09-102
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed April 18, 2007, 11:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-03-165.

Title of Rule and Other Identifying Information: Chapter 51-04 WAC, Policies and procedures for consideration of statewide and local amendments to the State Building Code.

Hearing Location(s): Spokane City Hall, Council Chambers, 808 West Spokane Falls Boulevard, Spokane, WA 99201, on June 8, 2007, at 10:00 a.m.

Date of Intended Adoption: June 8, 2007.

Submit Written Comments to: John Neff, Council Chair, P.O. Box 42525, Olympia, WA 98504-2525, e-mail sbcc@cted.wa.gov, fax (360) 586-9383, by June 7, 2007.

Assistance for Persons with Disabilities: Contact Sue Mathers by May 30, 2007, TTY (360) 753-7427 or (360) 725-2966.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule clarifies procedures for state and local amendment review; refines and clarifies the process for reconsideration; and amends the process for issuing opinions at the request of code officials.

Reasons Supporting Proposal: RCW 19.27.035, 19.27.-060, and 19.27.074.

Statutory Authority for Adoption: RCW 19.27.074.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council is seeking comments on the issue proposed in the rule shown below.

Name of Proponent: State building code council, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tim Nogler, P.O. Box 42525, Olympia, WA 98504-2525, (360) 725-2969.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed changes do not have an economic impact on small business.

A cost-benefit analysis is not required under RCW 34.05.328. There is no cost associated with the policy amendments.

April 13, 2007

John P. Neff

Council Chair

AMENDATORY SECTION (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

WAC 51-04-010 Declaration of purpose. The Washington state building code council, hereinafter called the council, is required by chapter 266, Laws of 1988, to adopt and maintain the state building code, hereinafter referred to as the building code, as provided in chapters 19.27, 19.27A, and 70.92 RCW, and the state legislature.

The primary objective of the council is to encourage consistency in the building code throughout the state of Washington and to maintain the building code consistent with the state's interest as provided in RCW 19.27.020.

The building code shall be as defined in WAC 51-04-015(~~((6))~~) (8).

The council is also required by RCW 19.27.074 to approve or deny all city and county amendments to the building code that apply to single family or multifamily buildings as defined in RCW 19.27.015.

The purpose of this chapter is to establish policies and procedures for submittal and council review and consideration of proposed statewide and city and county amendments respectively, to the building code.

AMENDATORY SECTION (Amending WSR 05-23-104, filed 11/17/05, effective 1/1/06)

WAC 51-04-020 Policies for the consideration of proposed statewide amendments. Statewide and emergency statewide amendments to the state building code (~~(should)~~) shall be based on one of the following criteria:

(1) The amendment is needed to address a critical life/safety need.

(2) The amendment is needed to address a specific state policy or statute.

(3) The amendment is needed for consistency with state or federal regulations.

(4) The amendment is needed to address a unique character of the state.

(5) The amendment corrects errors and omissions.

Statewide and emergency statewide amendments to the state building code shall conform to the purposes, objectives, and standards prescribed in RCW 19.27.020.

The council will accept and consider petitions for emergency statewide amendments to the building code at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW.

The council will accept and consider all other petitions for statewide amendments in conjunction with the state building code update cycle, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020 as follows:

The state building code council shall publicize the state building code amendment process in January of each year. Proposed state amendments must be received by March 1 to be considered for adoption by December 1. The state building code council shall review all proposed statewide amendments and file for future rule making those proposals approved as submitted or as amended by the council. State amendments as approved by the council shall be submitted to the appropriate model code organization, at the direction of the council, except those adopted for consistency with state statutes or regulation and held for further review during the adoption period of those model codes by the council. The effective date of any statewide amendments shall be the same as the effective date of the new edition of the model codes, except for emergency amendments adopted in accordance with chapter 34.05 RCW and deemed appropriate by the council.

The adoption period of new model codes commences upon availability of the publication of the new edition of the model codes and concludes with formal adoption of the building code as amended by the council and final review by the state legislature. For the purposes of this section, the publication of supplements shall not be considered a new edition. The council will consider state amendments to:

The model codes provided that the proposed amendments shall be limited to address changes in the model codes since the previous edition; or, address existing statewide amendments to the model codes; or, address portions of the state building code other than the model codes.

The state building code council shall consider the action of the model code organizations in their consideration of these proposals.

Within sixty days of the receipt of the new edition of the model codes the council shall enter rule making to update the state building code.

AMENDATORY SECTION (Amending WSR 94-05-058, filed 2/10/94, effective 3/13/94)

WAC 51-04-025 Procedure for submittal ~~((or))~~ of proposed statewide amendments. All proposed statewide amendments shall be submitted in writing to the council, on the form provided by the council.

Petitions for statewide amendments to the building code shall be submitted to the council during the submission period and the adoption period in accordance with WAC 51-04-020.

Petitions for emergency statewide amendments to the building code may be submitted at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020.

The council may refer a proposed statewide amendment to one of the council standing committees for review and comment prior to council action in accordance with chapter 34.05 RCW.

The council shall deal with all proposed statewide amendments within the time frames required by chapter 19.27 RCW, RCW 34.05.330, and all other deadlines established by statute.

AMENDATORY SECTION (Amending WSR 05-23-104, filed 11/17/05, effective 1/1/06)

WAC 51-04-030 Policies for consideration of proposed local government residential amendments. All amendments to the building code, as adopted by cities and counties for implementation and enforcement in their respective jurisdictions, that apply to single and multifamily buildings as defined by RCW 19.27.015, shall be submitted to the council for approval.

The council shall consider and approve or deny all proposed local government residential amendments to the building code within ninety calendar days of receipt of a proposal, unless alternative scheduling is agreed to by the council and the proposing entity.

All local government residential amendments to the building code that require council approval shall be submitted in writing to the council, after the city or county legislative body has adopted the amendment and prior to implementation and enforcement of the amendment by the local jurisdiction. All local amendments submitted for review shall be accompanied by findings of fact adopted by the governing body of the local jurisdiction justifying the adoption of the local amendment in accordance with the five criteria noted below in this section.

It is the policy of the council to encourage joint proposals for local government residential amendments from more than one jurisdiction. Local government residential amendments submitted to the council for approval (~~should~~) shall be based on:

- (1) Climatic conditions that are unique to the jurisdiction.
- (2) Geologic or seismic conditions that are unique to the jurisdiction.
- (3) Environmental impacts such as noise, dust, etc., that are unique to the jurisdiction.
- (4) Life, health, or safety conditions that are unique to the local jurisdiction.
- (5) Other special conditions that are unique to the jurisdiction.

EXCEPTION(S): (~~Appendices or portions thereof that have the effect of amending the uniform codes, that do not conflict with the building code for single and multifamily residential buildings as defined by RCW 19.27.015, may be adopted by local jurisdictions without council review or approval.~~)

Local government residential amendments to administrative provisions (departmental operational procedures) contained within the state building code need not be submitted to the council for review and approval provided that such amendments do not alter the construction requirements of those chapters.

Those portions of the supplement or accumulative supplements that affect single and multifamily residential buildings as defined by RCW 19.27.015 that are not adopted by the council shall be submitted to the council for consideration as local government residential amendments to the building code.

Local government residential amendments shall conform to the limitations provided in RCW 19.27.040.

AMENDATORY SECTION (Amending WSR 05-23-104, filed 11/17/05, effective 1/1/06)

WAC 51-04-040 Reconsideration. ~~((Any party proposing a statewide or local government amendment to the building code may, upon denial of the amendment by the council, file a petition for reconsideration.~~

~~Within ten days of a building code council vote to deny a statewide or local government amendment, any party may file a petition for reconsideration, stating the specific justification for rule adoption or local amendment. The petition shall be filed with the State Building Code Council, P.O. Box 42525, Olympia, Washington 98504-2525.~~

~~The council is deemed to have denied the petition for reconsideration if, within sixty days from the date the petition is filed, the council does not either:~~

- ~~(1) Dispose of the petition; or~~
- ~~(2) Serve the parties with a written notice specifying the date by which it will act on the petition.~~

~~Unless the petition is deemed denied, the petition shall be disposed of by the council with recommendations from the same committee or committees that considered the proposed rule or local amendment. The disposition shall be in the form of a written notice denying the petition, granting the petition and refiling the rule-making order or approving the local amendment, or granting the petition and setting the matter for further hearings.))~~ (1) When the council denies a statewide or local amendment to the building code, the party proposing the amendment may file a petition for reconsideration. The petition must be received by the State Building Code Council, P.O. Box 42525, Olympia, Washington 98504-2525, within ten calendar days of the date of the denial. The petition must give specific reasons for why the council should reconsider the amendment for approval or denial.

(2) Within sixty calendar days of receipt of a timely petition for reconsideration, the council shall in writing:

- (a) Grant the petition for reconsideration and approve the amendment;
- (b) Deny the petition for reconsideration, giving reasons for the denial; or
- (c) Request additional information and extend the time period for not more than thirty calendar days to either grant or deny the petition for reconsideration.

(3) The council's denial of a proposed statewide or local government amendment, or the council denial of a petition for reconsideration under this section, is subject to judicial review under chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 04-01-107, filed 12/17/03, effective 7/1/04)

WAC 51-04-060 Opinions. RCW 19.27.031 grants the council authority to render opinions relating to the building code at the request of a local ~~((building))~~ code official.

For the purposes of this section, the term "~~((building))~~ code official" means the local or state official, or their designee, responsible for implementation and enforcement of the specific code provision on which the opinion is requested.

At the request of a code official, the council ((building code related)) will issue opinions ((shall be limited to the state regulations for barrier-free facilities;)) relating to the

codes adopted under chapters 19.27, 19.27A, and 70.92 RCW, including the state energy code, the state ventilation and indoor air quality code, and council amendments to the model codes. At the request of a local code official, the council may issue opinions on the applicability of WAC 51-04-030 to a local government ordinance regulating construction.

Council related opinions may be developed and approved by a standing committee of the council.

Opinions approved by a standing committee may be reviewed and modified by the council.