

**WSR 07-13-045**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed June 14, 2007, 2:12 p.m.]

Title of Rule and Other Identifying Information: WAC 220-56-255 Bottomfish protection during closed halibut season.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lori Preuss, Rules Coordinator, Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, AND RECEIVED BY August 21, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules provide additional protection for bottomfish during closed halibut season. Action will minimize by-catch and targeting of depressed bottomfish populations in offshore waters.

Reasons Supporting Proposal: These rules incorporate the recommendations of the Pacific Fisheries Management Council for the conservation of bottomfish while providing for a recreational halibut fishery. Public input was sought and obtained in the council's deliberation process.

Statutory Authority for Adoption: RCW 77.04.020 and 77.12.047.

Statute Being Implemented: RCW 77.04.020 and 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: Morris Barker, 1111 Washington Street S.E., Olympia, WA, (360) 902-2826; Implementation: Phil Anderson, 1111 Washington Street S.E., Olympia, WA, (360) 902-2720; and Enforcement: Bruce Bjork, 1111 Washington Street S.E., Olympia, WA, (360) 902-2929.

June 14, 2007

Lori Preuss  
Rules Coordinator

AMENDATORY SECTION (Amending Order 06-199, filed 8/10/06, effective 9/10/06)

**WAC 220-56-255 Halibut—Seasons—Daily and possession limits.** (1) It is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1: Open May 1 through September 30. By-catch restriction: It is unlawful during any

vessel trip to bring into port or land bottomfish except sablefish if the vessel has brought halibut into port or landed halibut.

(b) Catch Record Card Area 2:

(i) Those waters south of the Queets River, north of 47° and east of 124°40'W - Open May 1 through September 30.

(ii) All other waters in Area 2 - Open May 1 through September 30, except closed to fishing for halibut 12:01 a.m. of each Friday through 11:59 p.m. of each Saturday.

(c) Catch Record Card Areas 3 and 4 - Open May 10 through September 30, except closed to fishing for halibut 12:01 a.m. of each Sunday through 11:59 p.m. of each Monday. The following area southwest of Cape Flattery is closed to halibut fishing at all times:

Those waters within an eastward facing "C" shaped closed area defined as: Beginning at 48°18'N. lat.; 125°18'W. long., thence to 48°18'N. lat.; 124°59'W. long., thence to 48°11'N. lat.; 124°59'W. long., thence to 48°11'N. lat.; 125°11'W. long., thence to 48°04'N. lat.; 125°11'W. long., thence to 48°04'N. lat.; 124°59'W. long., thence to 48°00'N. lat.; 124°59'W. long., thence to 48°00'N. lat.; 125°18'W. long., thence to the point of origin.

It is unlawful to fish for or possess bottomfish seaward of a line approximating the 20-fathom depth contour as defined by the following coordinates, on days and times closed to halibut fishing:

48°23.9'N.; 124°44.2'W.

48°23.6'N.; 124°44.9'W.

48°18.6'N.; 124°43.6'W.

48°18.6'N.; 124°48.2'W.

48°10.0'N.; 124°48.8'W.

48°02.4'N.; 124°49.3'W.

47°37.6'N.; 124°34.3'W.

47°31.7'N.; 124°32.4'W.

(d) Catch Record Card Area 5 - Open May 26 through July 31, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(e) Catch Record Card Areas 6 through 13 - Open April 14 through June 20, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(2) Daily limit one halibut taken from state and offshore waters, except Canadian waters. See WAC 220-56-156 for limits on Canadian-origin halibut.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit. See WAC 220-56-156 for rules on Canadian-origin halibut possession.

(4) It is unlawful to land halibut outside the catch area in which the halibut were taken, except for Canadian-origin halibut. See WAC 220-56-156 for rules on landing Canadian-origin halibut.

**WSR 07-13-060**  
**WITHDRAWAL OF**  
**EXPEDITED RULE MAKING**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Aging and Disability Services Administration)  
[Filed June 16, 2007, 1:16 p.m.]

The aging and disability services administration requests the withdrawal of the expedited rule-making notice filed as WSR 07-05-084 (WAC 388-513-1350).

The department has initiated the permanent rule-making process on this WAC section by filing a CR-101 preproposal statement of inquiry as WSR 07-12-063.

Stephanie E. Schiller  
Rules Coordinator

**WSR 07-13-078**  
**EXPEDITED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 07-10—Filed June 18, 2007, 3:28 p.m.]

Title of Rule and Other Identifying Information: WAC 173-400-035 Portable/temporary source permits, 173-400-045 Control technology fees, 173-400-104 Registration fees (registration program), 173-400-116 New source review fees, 173-400-180 Air pollution standards variance, 173-407-040 Carbon dioxide mitigation program fees, 173-433-170 Retail sales fees (solid fuel burning devices), 173-491-030 Registration fees (sources emitting gasoline vapors), 173-495-060 Procedures for issuing license (weather modification), 173-495-065 Period of license (weather modification), and 173-495-070 Permit requirements (weather modification).

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jerry Thielen, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, AND RECEIVED BY August 22, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this expedited rule making is to clean up all of the rules involved with creating chapter 173-455 WAC, the air quality fee rule. For this rule making, we will strike out language related to fees and add in language pointing readers to chapter 173-455 WAC for fee information, from the rules listed above.

Statutory Authority for Adoption: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892, [70.94.]011.

Statute Being Implemented: RCW 70.94.151, [70.94.]152, [70.94.]181, [70.94.]011.

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

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Leigh Fiedler, Department of Ecology, Lacey, (360) 407-7530; and Enforcement: Sarah Rees, Department of Ecology, Lacey, (360) 407-6823.

June 15, 2007

Polly Zehm

Deputy Director

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-035 Portable and temporary sources.**

(1) For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location providing that the owner(s) or operator(s) notifies **ecology** or the **authority** of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable **ecology** or the **authority** to determine that the operation will comply with the **emission standards** for a **new source**, and will not cause a violation of applicable **ambient air quality standards** and, if in a **nonattainment area**, will not interfere with scheduled attainment of **ambient standards**. The permission to operate shall be for a limited period of time (one year or less) and **ecology** or the **authority** may set specific conditions for operation during that period. A temporary source shall be required to comply with all applicable **emission standards**. A temporary or portable source that is considered a **major stationary source** within the meaning of WAC 173-400-113 must also comply with the requirements in WAC 173-400-141.

(2) This section applies statewide except where an authority has its own rule regulating such sources.

(3) Fees relating to this section can be found in chapter 173-455 WAC.

AMENDATORY SECTION (Amending Order 94-35, filed 9/13/96, effective 10/14/96)

**WAC 173-400-045 Control technology fees.** ~~((+)) General. Ecology may assess and collect a fee as authorized in RCW 70.94.154 and described in subsections (2) through (5) of this section.~~

~~(2) Fee schedule for source-specific determinations where RACT analysis and determination are performed by ecology.~~

~~(a) Basic RACT analysis and determination fee:~~

~~(i) Low complexity (the analysis addresses one type of emission unit) — one thousand five hundred dollars;~~

~~(ii) Moderate complexity (the analysis addresses two to five types of emissions units) — seven thousand five hundred dollars;~~

~~(iii) High complexity (the analysis addresses more than five types of emission units) — fifteen thousand dollars.~~

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, a fee will be required for a RACT analysis and determination for an emission unit or multiple emission units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant—two thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, the following fees will be required as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than ten tons per year of any toxic air pollutant—one thousand dollars; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant—two thousand dollars.

(3) Fee schedule for source specific determinations where RACT analysis is performed by the source and review and determination conducted by ecology:

(a) Basic RACT review and determination fees:

(i) Low complexity (the analysis addresses one type of emission unit)—one thousand dollars;

(ii) Moderate complexity (the analysis addresses two to five types of emissions units)—five thousand dollars;

(iii) High complexity (the analysis addresses more than five types of emission units)—ten thousand dollars.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, a fee will be required for a RACT analysis and determination for an emission unit or multiple emissions units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant—one thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, the following fees will be required as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than ten tons per year of any toxic air pollutant—five hundred dollars; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant—one thousand dollars.

(4) Fee schedule for reviews authorized under RCW 70.94.153 for the replacement or substantial alteration of control technology:

(a) Notice of construction application. Review and approval of notice of construction application (NOCA) for replacement or substantial alteration of control technology—three hundred fifty dollars.

(b) RACT analysis and determination. Review and approval of a RACT analysis and determination for affected emission unit—five hundred dollars.

(5) Fee schedule for categorical RACT determinations: Fees for categorical RACT determinations (for categories with more than three sources) shall be assessed as shown below. The fees described in (a) of this subsection shall be based on the most complex source within a category. Except as provided in (b) and (d) of this subsection, fees for individual sources in the category will be determined by dividing the total source category fee by the number of sources within the category:

(a) RACT analysis and determination (RACT analysis performed by ecology with assistance from sources):

(i) Low complexity source category (average source emissions of individual criteria pollutants are all less than twenty tons per year, average source emissions of individual toxic air pollutants are all less than two tons per year, or the analysis addresses one type of emission unit)—twenty-five thousand dollars;

(ii) Moderate complexity source category (average source emissions of one or more individual criteria pollutants are greater than twenty tons/year and less than one hundred tons per year, average source emissions of one or more individual toxic air pollutants are greater than two tons per year and less than ten tons per year, or the analysis addresses two to five types of emissions units)—fifty thousand dollars; or

(iii) High complexity source category (average source emissions of one or more individual criteria pollutants exceed one hundred tons per year, average source emissions of one or more individual toxic air pollutants exceed ten tons per year, or the analysis addresses more than five types of emission units)—one hundred thousand dollars.

(b) If an emission unit is being evaluated for more than one categorical RACT determination within a five-year period, ecology will charge the owner or operator of that emission unit one fee and the fee will reflect the higher complexity categorical RACT determination.

(c) Ecology may adjust the fee to reflect workload savings from source involvement in source category RACT determination.

(d) Ecology may approve alternate methods for allocating the fee among sources within the source category.

(6) Small business fee reduction. The RACT analysis and determination fee identified in subsections (2) through (5) of this section may be reduced for a small business:

(a) To qualify for the small business RACT fee reduction, a business must meet the requirements of "small business" as defined in RCW 43.31.025.

(b) To receive a fee reduction, the owner or operator of a small business must include information in an application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:

(i) By an authorized corporate officer in the case of a corporation;

(ii) By an authorized partner in the case of a limited or general partnership; or

(iii) By the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a) of this subsection, the RACT analysis and determination fee shall be reduced to the greater of:

(i) Fifty percent of the RACT analysis and determination fee; or

(ii) Two hundred fifty dollars.

(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the RACT analysis and determination fees through to customers; and average annual profits. In no case will a RACT analysis and determination fee be reduced below one hundred dollars.

(7) Fee reductions for pollution prevention initiatives. Ecology may reduce RACT analysis and determination fees for an individual source if that source is using approved pollution prevention measures.

(8) Fee payments. Fees specified in subsection (4)(a) of this section shall be paid at the time a notice of construction applications is submitted to the department. Other fees specified in subsections (2) through (7) of this section shall be paid no later than thirty days after receipt of an ecology billing statement. For fees specified in subsection (5) of this section, a billing for one-half of the payment from each source will be mailed when the source category rule making effort is commenced as noted by publication of the CR101 form in the *Washington State Register*. A billing for the second half of the payment will be mailed when the proposed rule is published in the *Washington State Register*. No order of approval or other action approving or identifying a source to be at RACT will be issued by the department until all fees have been paid by the source. All fees collected under this regulation shall be made payable to the Washington department of ecology.

(9) Dedicated account. All control technology fees collected by the department from permit program sources shall be deposited in the air operating permit account created under RCW 70.94.015. All control technology fees collected by the department from nonpermit program sources shall be deposited in the air pollution control account.

(10) Tracking revenues, time, and expenditures. Ecology shall track revenues on a source specific basis. For purposes of source specific determinations under subsections (2) through (4) of this section, Ecology shall track time and expenditures on the basis of source complexity categories. For purposes of categorical determinations under subsection (5) of this section, ecology shall track time and expenditures on a source category basis.

(11) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.) Fees can be found in chapter 173-455 WAC.

AMENDATORY SECTION (Amending Order 03-07, filed 1/10/05, effective 2/10/05)

**WAC 173-400-104 Registration fees.** ~~((1) Registration fee determination. In counties without an active local air pollution control authority, ecology shall establish registration fees based on workload using the process outlined below. The fees collected shall be sufficient to cover the direct and indirect costs of administering the registration program within ecology's jurisdiction.~~

~~(2) Budget preparation. Ecology shall conduct a workload analysis projecting resource requirements for administering the registration program. Workload estimates shall be prepared on a biennial basis and shall estimate the resources required to perform registration program activities listed in WAC 173-400-099(2). Ecology shall prepare a budget for administering the registration program using workload estimates identified in the workload analysis for the biennium.~~

~~(3) Registration fee schedule. Ecology's registration program budget shall be distributed to sources located in its jurisdiction according to the following:~~

~~(a) Sources requiring periodic registration and inspections shall pay an annual registration fee of four hundred dollars.~~

~~(b) Sources requiring annual registration and inspections shall pay a registration fee comprised of the following three components:~~

~~(i) Flat component. This portion of a source's fee shall be calculated by the equal division of thirty-five percent of the budget amount allocated to annual registration sources by the total number of sources requiring annual registration.~~

~~(ii) Complexity component. Each source is assigned a complexity rating of 1, 3, or 5 which is based on the estimated amount of time needed to review and inspect the source. This portion of the fee is calculated by dividing forty percent of the budget amount allocated to annually registered sources by the total complexity of sources located in ecology's jurisdiction. The quotient is then multiplied by an individual source's complexity rating to determine that source's complexity portion of the fee.~~

~~(iii) Emissions component. This portion of a source's fee is calculated by dividing twenty-five percent of the budget amount allocated to annually registered sources by the total billable emissions from those sources. The quotient is then multiplied by an individual source's billable emissions to determine that source's emissions portion of the fee. Billable emissions include all air pollutants except carbon monoxide and total suspended particulate.~~

~~(4) Regulatory orders. Owners or operators registering a source as a synthetic minor must obtain a regulatory order which limits the source's emissions. The owner will be required to pay a fee based on the amount of time required to research and write the order multiplied by an hourly rate of sixty dollars.~~

~~(5) Fee reductions for pollution prevention initiatives. Ecology may reduce registration fees for an individual source if that source demonstrates the use of approved pollution prevention measures or best management practices beyond those required of the source.~~

~~(6) Fee reductions for economic hardships. If a small business owner believes the registration fee results in an~~

extreme economic hardship, the small business owner may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the registration fee through to customers; average annual profits, and cumulative effects of multiple site ownership. In no case will a registration fee be reduced below two hundred dollars.

(7) Fee payments. Fees specified in this section shall be paid within thirty days of receipt of ecology's billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology. A late fee surcharge of fifty dollars or ten percent of the fee, whichever is more, may be assessed for any fee not received after the thirty-day period.

(8) Dedicated account. All registration fees collected by ecology shall be deposited in the air pollution control account.

(9) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of ecology budget functions.

(10) Additional registration fee for fossil fueled electric generating facilities. A fossil fueled electric generating facility subject to the provisions of chapter 80.70 RCW and RCW 70.94.892, is subject to additional fees pursuant to that chapter.)) Fees can be found in chapter 173-455 WAC.

AMENDATORY SECTION (Amending Order 03-07, filed 1/10/05, effective 2/10/05)

**WAC 173-400-116 New source review fees.** ((+) **Applicability.** Every person required to submit a notice of construction application to the department of ecology as authorized in RCW 70.94.152 for establishment of any proposed new source or emissions unit(s) shall pay fees as set forth in subsections (2) and (3) of this section. Persons required to submit a notice of construction application to a local air authority may be required to pay a fee as required by the local permitting authority. Persons required to submit a notice of construction application to a local air authority may be required to pay a fee to ecology to cover the costs of review pursuant to WAC 173-400-720, second tier analysis pursuant to WAC 173-460-090, and risk management decisions pursuant to WAC 173-460-100 as set forth in subsection (3) of this section. Fees assessed under this section shall apply without regard to whether an order of approval is issued or denied.

(2) **Basic review fees.** All owners or operators of proposed new sources are required to pay a basic review fee. The basic review fee covers the costs associated with preapplication assistance, completeness determination, BACT determination, technical review, public involvement and approval/denial orders. Complexity determination shall be based on the project described in the notice of construction application. The basic review fees are either (a) or (b) below:

(a) Basic new source review fees:

Source type	Clarifying criteria	Fee
Basic Review Fees		
Low complexity source	Emissions increase of individual pollutants are all less than one-half of the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of individual toxic air pollutants are all less than 2.0 tons/year	\$1250
Moderate complexity	Emissions increase of one or more individual pollutants are greater than one-half of, and less than the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of one or more toxic air pollutants are greater than 2.0 tons/year and less than ten tons/year	\$8000
High complexity	Emissions increase of one or more pollutants are greater than the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of one or more toxic air pollutants are greater than ten tons/year	\$18,000

(b) New source review fees for specific source categories:

Source type	Clarifying criteria	Fee
Dry cleaners		\$250
Gasoline stations		\$250
Storage tanks		
	<20,000 gallons	\$250
	20,000 – 100,000 gallons	\$650
	>100,000 gallons	\$900
Chromic acid plating and anodizing identified in WAC 173-460-060		\$250

Source type	Clarifying criteria	Fee
Solvent metal cleaners identified in WAC 173-460-060		\$250
Abrasive blasting identified in WAC 173-460-060		\$250
New emission units or activities that qualify as insignificant emission units under WAC 173-401-530 whether located at a chapter 173-401 WAC source or nonchapter 173-401 WAC source		\$250
Application for coverage under a general order of approval	WAC 173-400-560 and criteria included in a specific general order of approval	\$500
Nonroad engines		
Less than a total of 500 installed horsepower		\$500
More than 500 horsepower and less than a total of 2000 installed horsepower		\$900
More than 2000 horsepower and less than a total of 5000 installed horsepower		\$2000
More than 5000 horsepower and less than a total of 10,000 installed horsepower		\$4000
More than a total of 10,000 installed horsepower		\$7500

(c) **Additional units.** An owner or operator proposing to build more than one identical emission unit shall be charged a fee for the additional units equal to one-third the basic review fee of the first unit.

(3) **Additional charges.** In addition to those fees required under subsection (2)(a) through (c) of this section, the following fees will be required as applicable:

(a) Major NSR actions under WAC 173-400-720 and 173-400-112:

Activity	Clarifying criteria	Fee
Prevention of significant deterioration review or increase in a PAL limitation	WAC 173-400-720	\$15,000
Establishing LAER and offset requirements	WAC 173-400-112	\$10,000

Activity	Clarifying criteria	Fee
Establishing or renewal of clean unit status	Per 40 CFR 52.21(y)	\$1500
Pollution control project approval	Per 40 CFR 52.21(z)	\$1500
Establishment of a PAL	Per 40 CFR 52.21(aa)	\$4000
Renewal of a PAL	Per 40 CFR 52.21(aa)	\$4000
Expiration of a PAL	Per 40 CFR 52.21(aa)	\$12,000
PSD permit revisions		
All except administrative	WAC 173-400-750	\$10,000
Administrative revisions	WAC 173-400-750	\$1500

(b) **Other actions:**

Activity	Clarifying criteria	Fee
Tier II toxic air pollutant impact review		\$10,000
Tier III toxic air pollutant impact review		\$10,000
Case-by-case MACT determinations		\$12,500
Fossil fueled electric generating unit	Applicability criteria found in chapter 80.70 RCW	Fees listed in rule implementing RCW 70.94.892 and chapter 80.70-RCW

Changes to existing orders of approval, Tier I review, Tier II review, or other action identified above:

Activity	Clarifying criteria	Fee
Modification to order of approval		50% of the fee charged in WAC 173-400-116 (2)(a)
Modification of Tier II approval		50% of the fee charged in WAC 173-400-116 (2)(b)

(4) **Small business fee reduction.** The new source review fee identified in subsections (2) and (3) of this section may be reduced for a small business.

(a) To qualify for the small business new source review fee reduction, a business must meet the requirements of "small business" as defined in RCW 19.85.020. In RCW 19.85.020, "small business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees.

(b) To receive a fee reduction, the owner or operator of a small business must include information in the application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:

- (i) By an authorized corporate officer in the case of a corporation;
- (ii) By an authorized partner in the case of a limited or general partnership; or
- (iii) By the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a) of this subsection, the new source review fee shall be reduced to the greater of:

- (i) Fifty percent of the new source review fee; or
- (ii) Two hundred fifty dollars.

(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the new source review fees through to customers; and average annual profits. In no case will a new source review fee be reduced below one hundred dollars.

(5) Fee reductions for pollution prevention initiatives. Ecology may reduce the fees defined in subsections (2) and (3) of this section where the owner or operator of the proposed source demonstrates that approved pollution prevention measures will be used.

(6) Fee payments. Fees specified in subsections (2) through (5) of this section shall be paid at the time a notice of construction application is submitted to the department. A notice of construction application is considered incomplete until ecology has received the appropriate new source review payment. Additional charges assessed pursuant to subsection (3) of this section shall be due thirty days after receipt of an ecology billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology.

(7) Dedicated account. All new source review fees collected by the department shall be deposited in the air pollution control account.

(8) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a

source-specific basis. Ecology shall track time and expenditures on the basis of complexity categories.

(9) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.))  
Fees can be found in chapter 173-455 WAC.

AMENDATORY SECTION (Amending Order 93-03, filed 8/20/93, effective 9/20/93)

**WAC 173-400-180 Variance.** Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to ecology for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provisions of RCW 70.94.181.

(1) **Jurisdiction.** Sources in any area over which a local air pollution control authority has jurisdiction shall make application to that authority rather than ecology. Variances to state rules shall require ecology's approval prior to being issued by an authority. Ecology or the authority may grant such variance, but only after public involvement per WAC 173-400-171.

(2) **Full faith and credit.** Variances granted in compliance with state and federal laws by an authority for sources under their jurisdiction will be accepted as variances to this regulation.

(3) **EPA concurrence.** No variance or renewal shall be construed to set aside or delay any requirements of the Federal Clean Air Act except with the approval and written concurrence of the USEPA.

(4) Fees relating to this section can be found in chapter 173-455 WAC.

AMENDATORY SECTION (Amending Order 03-09, filed 12/22/04, effective 1/22/05)

**WAC 173-407-040 Carbon dioxide mitigation program fees.** ~~((1) **Statutory authorization.** RCW 70.94.892 authorizes the department to determine, assess, and collect fees sufficient to cover costs to review and approve or deny the carbon dioxide mitigation plan components of an order of approval. The order of approval will specify costs to monitor conformance related to the carbon dioxide mitigation plan.~~

(2) **Fees.** The fees for the carbon dioxide mitigation program are described in this section and listed in the table below. The fees listed are added to the fees established in chapters 173-400 and 173-401 WAC, when the carbon dioxide mitigation plan requirements are triggered.

Activity	Fee
<b>a. Application Review</b>	\$65.00/hr <sup>1</sup> not to exceed \$500.00
<b>b. Mitigation Plan approval</b>	
i. Payment to third party	\$100 <sup>2</sup>
ii. Purchase of CO <sub>2</sub> credits	\$65.00/hr <sup>3</sup>
iii. Direct investment	\$65.00/hr <sup>4</sup>
<b>c. Routine Compliance Monitoring</b>	

Activity	Fee
i. Payment to third party	\$100 <sup>5</sup> annually until full amount paid
ii. Purchase of CO <sub>2</sub> credits	\$65.00/hr <sup>6</sup>
iii. Applicant Controlled Project	\$65.00/hr <sup>7</sup>

<sup>1</sup>Estimated using an EE3 per hour rate with a cap.  
<sup>2</sup>Small fee primarily to check math and that the source is using an EFSEC approved qualified organization.  
<sup>3</sup>Estimated EE3 per hour rate to check that the credits purchased will be verifiable and from a reputable trading or marketing organization.  
<sup>4</sup>Estimated using an EE3 per hour rate.  
<sup>5</sup>Same as rationale for <sup>2</sup> above.  
<sup>6</sup>Verify and confirm credits with the trading or marketing organization.

~~(3) The department or authority may use RCW 70.94.085 to structure a cost-reimbursement agreement with the applicant.)) Fees can be found in chapter 173-455 WAC.~~

AMENDATORY SECTION (Amending Order 91-55, filed 2/3/93, effective 3/6/93)

**WAC 173-433-170 Retail sales fee.** ~~((1) A person selling a solid fuel burning device at retail shall collect a fee from the buyer, pursuant to RCW 70.94.483.~~

~~(2) The fee shall be:~~

~~(a) Set at a minimum of thirty dollars on January 1, 1992. Thereafter, ecology may annually adjust the fee to account for inflation as determined by the office of the state economic and revenue forecast council. Adjustments in the fee should be rounded down to the nearest dollar.~~

~~(b) Applicable to all new and used solid fuel burning devices.~~

~~(c) Procedures for masonry fireplaces. Generally, contractors will collect, pay, and report the fee to the department of revenue on the combined excise tax return for the tax reporting period during which the retail sales tax is billed to the customer for the construction of the masonry fireplace. (See WAC 458-20-170 for a detailed explanation.) Collection and payment of the fee by contractors shall be in accordance with the following:~~

~~(i) A masonry contractor or other subcontractor who builds a masonry fireplace. The retail sale occurs at the time the general or prime contractor or customer is billed for the work. The masonry contractor or other subcontractor must collect the fee and pay it to the department of revenue, unless the masonry contractor or other subcontractor has received a resale certificate from the general or prime contractor. The fee shall be reported on the combined excise tax return.~~

~~(ii) A general or prime contractor building a custom building. The retail sale occurs at the time the customer is billed for the construction. The fee is charged and reported with the first progress payment after the masonry fireplace has been substantially completed. If a general or prime contractor subcontracts the work on a custom building to a masonry or other contractor, the general or prime contractor may give the masonry or other subcontractor a resale certificate. The general or prime contractor is responsible to collect the fee and pay it to the department of revenue. The fee is reported on the combined excise tax return.~~

~~(iii) A general or prime contractor building a speculation building. The fee is required to be paid at the time the fireplace is complete. The fee must be reported to the department of revenue on a combined excise tax return and paid to the department of revenue. If the prime or general contractor subcontracts the building of the masonry fireplace to a masonry contractor or other subcontractor, the general or prime contractor may not give a resale certificate to the masonry or other subcontractor. The masonry or other subcontractor must collect and pay the fee to the department of revenue as provided in (c)(i) of this subsection.~~

~~(d) Procedures for all other solid fuel burning devices. Collected by the retailer at the time of sale and remitted to the department of revenue in conjunction with the retail sales tax under chapter 82.08 RCW.~~

~~(3) If the retailer or contractor fails to collect and remit the fee to the department of revenue as prescribed in chapter 82.08 RCW, the retailer or contractor shall be personally liable to the state for the amount of the fee, with subsequent actions taken in accordance with the collection provisions of chapter 82.32 RCW.~~

~~(4) Beginning July 1, 1990, and each calendar quarter thereafter, the funds collected under RCW 70.94.483 shall be used solely for the purposes of public education and enforcement of the solid fuel burning device program. The department shall distribute the funds from the woodstove education and enforcement account as follows:~~

~~(a) Sixty-six percent of the funds shall be distributed to those local air authorities with enforcement programs, based upon the fraction of the total state population residing in the counties within their respective jurisdictions. Population figures used to establish this fraction shall be determined by the office of financial management. Where an activated local air authority does not exist or does not implement an enforcement program, or elects not to receive the funds, ecology shall retain the funds that would otherwise be distributed under this subsection; and~~

~~(b) Thirty-four percent of the funds shall be distributed to ecology for the purposes of enforcement and educating the public about:~~

~~(i) The effects of solid fuel burning device emissions upon health and air quality; and~~

~~(ii) Methods of achieving better efficiency and emission performance from solid fuel burning devices.)) Fees can be found in chapter 173-455 WAC.~~

AMENDATORY SECTION (Amending Order 90-63, filed 7/2/91, effective 8/2/91)

**WAC 173-491-030 Registration.** (1) The owner or operator of a gasoline loading terminal, bulk gasoline plant, or gasoline dispensing facility subject to the provisions of WAC 173-491-040 (2) through (5) shall register annually the facility with ecology or local air authority. Annual registration shall be made by the owner or operator on a form provided by ecology or local air authority within sixty days of receipt of the form. Such registration form shall require information relevant to determining whether the facility is in compliance with the requirements of this chapter and be accompanied by ~~((the following fee: Gasoline loading terminals~~



~~five hundred dollars, bulk gasoline plants two hundred dollars, gasoline dispensing facilities one hundred dollars, or a greater amount duly adopted by a local air pollution authority. The amount of the fees collected shall only be used to administer the registration program for facilities subject to this chapter)) fees outlined in chapter 173-455 WAC.~~

(2) Administration of the registration program shall include:

(a) Initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration.

(b) On-site inspections necessary to verify compliance with registration requirements.

(c) Data storage and retrieval systems necessary for support of the registration program.

(d) Emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration.

(e) Staff review, including engineering analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements.

(f) Clerical and other office support provided in direct furtherance of the registration program.

(g) Administrative support provided in directly carrying out the registration program.

(3) Ecology or local air authority will provide a written verification of registration to owners or operators of facilities subject to the provisions of WAC 173-491-040 (2) through (5). Such verification shall be available for inspection by ecology or local air authority personnel during normal business hours.

(4) The owner or operator of a gasoline loading terminal or a gasoline dispensing facility shall maintain total annual gasoline throughput records for the most recent two calendar years. Such records shall be available for inspection by ecology or local air authority personnel during normal business hours.

AMENDATORY SECTION (Amending Order 99-14, filed 12/3/99, effective 1/3/00)

**WAC 173-495-060 Procedures for issuing license.** (1) Any person or organization desiring to obtain a license or restricted license shall apply to ecology on the form prescribed, listing name, business address, etc.

(2) Ecology may require additional information of the applicant to determine competency in the field of meteorology. The additional information must be requested of the applicant by certified mail, and must be submitted in writing.

(3) Before issuing any license, the applicant shall pay a fee ~~((of one hundred dollars to the state of Washington))~~ as outlined in chapter 173-455 WAC.

(4) The application shall be deemed received by ecology when received at the Headquarters Offices, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, Washington, 98504-7600.

AMENDATORY SECTION (Amending Order 99-14, filed 12/3/99, effective 1/3/00)

**WAC 173-495-065 Period of license.** (1) Licenses issued under chapter 43.37 RCW and these regulations are effective for a period of one year, and will terminate at the end of the calendar year of issuance.

(2) The licensee may request a renewal of the license no later than December 1st. Ecology shall review the license renewal request after receiving a renewal fee ~~((of one hundred dollars made payable to the state of Washington))~~ outlined in chapter 173-455 WAC.

(3) In the determination of whether or not to grant a license renewal, ecology shall consider information provided by the applicant on the facts and circumstances used to issue the original permit that were changed or altered. If ecology determines that the licensee no longer meets the requirements of competency in the field of meteorology, ecology may refuse to renew the license.

AMENDATORY SECTION (Amending Order 99-14, filed 12/3/99, effective 1/3/00)

**WAC 173-495-070 Permit requirements.** (1) Each weather modification operation not specifically exempted by statute or these regulations requires a permit. A separate permit must be issued for each operation.

(2) A license holder desiring to conduct a weather modification operation shall submit an application for a permit to ecology.

(3) The permit applicant must hold a valid weather modification license from the state of Washington.

(4) The applicant shall publish a notice of intention at least once a week for three consecutive weeks in a newspaper that has general circulation within the county in which the operation is to be conducted or affected.

(5) The licensee shall file proof of publication of the notice of intention with ecology within fifteen days from the date of last publication of the notice.

(6) The notice of intention must contain at least the following:

(a) The name and address of the licensee;

(b) The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;

(c) The area in which and the appropriate time during which the operation will be conducted;

(d) The area intended to be affected by the operation; and

(e) The materials and methods to be used in conducting the operation.

(7) The applicant shall furnish proof of financial responsibility, as described in WAC 173-495-120 of this chapter.

(8) The applicant shall pay a permit fee ~~((of one and one-half percent of the estimated cost of the operation. The estimated cost will be computed by ecology from available data))~~ outlined in chapter 173-455 WAC.

(9) Before issuing a permit, ecology shall state, in writing, that the weather modification and control activities proposed have been determined to be for the general welfare and public good.

(10) Ecology shall hold a public hearing before any weather modification permit is issued.

**WSR 07-13-089**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed June 19, 2007, 12:11 p.m.]

Title of Rule and Other Identifying Information: WAC 296-46B-905 Temporary fees—Inspection fees.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Josh Swanson, Legislative Liaison, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY August 21, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rule making is to update the effective date in WAC 296-46B-905, of the electrical fees. Last year, the electrical program was able to decrease fees due to an increasing fund balance. The rule making will extend the fee decrease until December 31, 2008.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 19.28 RCW.

Statute Being Implemented: Chapter 19.28 RCW.

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: Ron Fuller, Tumwater, Washington, (360) 902-5249; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

June 19, 2007  
 Judy Schurke  
 Director

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

**WAC 296-46B-905 Temporary fees—Inspection fees.** Valid from January 1, 2007, through December 31, (~~2007~~) 2008, or until modified in rule, whichever comes first. To calculate inspection fees, the amperage is based on the conductor ampacity or the overcurrent device rating. The total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee

rate from subsection (8) of this section, PROGRESS INSPECTIONS.

The amount of the fee due is calculated based on the fee effective at the date of a department assessed fee (e.g., plan review or fee due) or when the electrical permit is purchased.

**(1) Residential.**

**(a) Single- and two-family residential (New Construction).**

**Notes:**

- (1) Square footage is the area included within the surrounding exterior walls of a building exclusive of any interior courts. (This includes any floor area in an attached garage, basement, or unfinished living space.)
- (2) "Inspected with the service" means that a separate service inspection fee is included on the same electrical work permit.
- (3) "Inspected at the same time" means all wiring is to be ready for inspection during the initial inspection trip.
- (4) An "outbuilding" is a structure that serves a direct accessory function to the residence, such as a pump house or storage building. Outbuilding does not include buildings used for commercial type occupancies or additional dwelling occupancies.

(i) First 1300 sq. ft.	\$69.00
Each additional 500 sq. ft. or portion of	\$22.00
(ii) Each outbuilding or detached garage - inspected at the same time as a dwelling unit on the property	\$29.00
(iii) Each outbuilding or detached garage - inspected separately	\$46.00
(iv) Each swimming pool - inspected with the service	\$46.00
(v) Each swimming pool - inspected separately	\$69.00
(vi) Each hot tub, spa, or sauna - inspected with the service	\$29.50
(vii) Each hot tub, spa, or sauna - inspected separately	\$46.00
(viii) Each septic pumping system - inspected with the service	\$29.50
(ix) Each septic pumping system - inspected separately	\$46.00

**(b) Multifamily residential and miscellaneous residential structures, services/feeders (New Construction).**

Each service/feeder			
	<b>Ampacity</b>	<b>Service/Feeder</b>	<b>Additional Feeder</b>
	0 to 200	\$75.00	\$22.00
	201 to 400	\$91.00	\$46.00
	401 to 600	\$128.00	\$64.00
	601 to 800	\$164.00	\$87.00
	801 and over	\$233.00	\$175.00

**(c) Single or multifamily altered services/feeders including circuits.**

(i) Each altered service/altered feeder		
	<b>Ampacity</b>	<b>Service or Feeder</b>
	0 to 200	\$64.00
	201 to 600	\$91.00
	601 and over	\$140.00
(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder)		\$34.00

**(d) Single or multifamily residential circuits only (no service inspection).**

**Note:**

Altered or added circuit fees are calculated per panelboard. Total cost of the alterations in an individual panel should not exceed the cost of a complete altered service or feeder of the same rating, as shown in subsection (1) RESIDENTIAL (c) (table) of this section.

(i) 1 to 4 circuits (see note above)	\$46.00
(ii) Each additional circuit (see note above)	\$5.00

**(e) Mobile homes, modular homes, mobile home parks, and RV parks.**

- (i) Mobile home or modular home service or feeder only \$46.00
- (ii) Mobile home service and feeder \$75.00

**(f) Mobile home park sites and RV park sites.**

**Note:**

For master service installations, see subsection (2) COMMERCIAL/INDUSTRIAL of this section.

- (i) First site service or site feeder \$46.00
- (ii) Each additional site service; or additional site feeder inspected at the same time as the first service or feeder \$29.00

**(2) Commercial/industrial.**

**(a) New service/feeder, and additional new feeders inspected at the same time (includes circuits).**

**Note:**

For large COMMERCIAL/INDUSTRIAL projects that include multiple feeders, "inspected at the same time" can be interpreted to include additional inspection trips for a single project. The additional inspections must be for electrical work specified on the permit at the time of purchase. The permit fee for such projects must be calculated from (2)(a)(i)(table) of this section. However, the total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) PROGRESS INSPECTIONS of this section.

Service/feeders

Ampacity	Service/Feeder	Additional Feeder
0 to 100	\$75.00	\$46.00
101 to 200	\$91.00	\$58.00
201 to 400	\$175.00	\$69.00
401 to 600	\$204.00	\$82.00
601 to 800	\$264.00	\$111.00
801 to 1000	\$322.00	\$134.00
1001 and over	\$351.00	\$187.00

**(b) Altered services or feeders (no circuits).**

**(i) Service/feeders**

Ampacity	Service/Feeder
0 to 200	\$75.00
201 to 600	\$175.00
601 to 1000	\$264.00
1001 and over	\$239.00

- (ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder) \$64.00

**(c) Circuits only.**

**Note:**

Altered/added circuit fees are calculated per panelboard. Total cost of the alterations in a panel (or panels) should not exceed the cost of a new feeder (or feeders) of the same rating, as shown in subsection (2) COMMERCIAL/INDUSTRIAL (2)(a)(i)(table) above.

- (i) First 5 circuits per branch circuit panel \$58.00
- (ii) Each additional circuit per branch circuit panel \$5.00
- (d) **Over 600 volts surcharge per permit.** \$58.00

**(3) Temporary service(s).**

**Note:**

- (1) See WAC 296-46B-527 for information about temporary installations.
- (2) Temporary stage or concert inspections requested outside of normal business hours will be subject to the portal-to-portal hourly fees in subsection (11) OTHER INSPECTIONS. The fee for such after hours inspections shall be the greater of the fee from this subsection or the portal-to-portal fee.

**Temporary services, temporary stage or concert productions.**

Ampacity	Service/Feeder	Additional Feeder
0 to 60	\$40.00	\$21.00
61 to 100	\$46.00	\$22.00
101 to 200	\$58.00	\$29.00
201 to 400	\$69.00	\$35.00
401 to 600	\$93.00	\$46.00
601 and over	\$105.00	\$53.00

**(4) Irrigation machines, pumps, and equipment.**

**Irrigation machines.**

- (a) Each tower - when inspected at the same time as a service and feeder from (2) COMMERCIAL/INDUSTRIAL \$5.00
- (b) Towers - when not inspected at the same time as a service and feeders - 1 to 6 towers \$69.00
- (c) Each additional tower \$5.00

**(5) Miscellaneous - commercial/industrial and residential.**

(a) **A Class 2 low-voltage thermostat** and its associated cable controlling a single piece of utilization equipment or a single furnace and air conditioner combination.

- (i) First thermostat \$35.00
- (ii) Each additional thermostat inspected at the same time as the first \$11.00

(b) **Class 2 or 3 low-voltage systems and telecommunications systems.** Includes all telecommunications installations, fire alarm, nurse call, energy management control systems, industrial and automation control systems, lighting control systems, and similar Class 2 or 3 low-energy circuits and equipment not included in WAC 296-46B-900 for Class B work.

- (i) First 2500 sq. ft. or less \$40.00
- (ii) Each additional 2500 sq. ft. or portion thereof \$11.00

**(c) Signs and outline lighting.**

- (i) First sign (no service included) \$35.00
- (ii) Each additional sign inspected at the same time on the same building or structure \$16.00

**(d) Berth at a marina or dock.**

**Note:**

Five berths or more shall be permitted to have the inspection fees based on appropriate service and feeder fees from section (2) COMMERCIAL/INDUSTRIAL (a) (i) above.

- (i) Berth at a marina or dock \$46.00
- (ii) Each additional berth inspected at the same time \$29.00

**(e) Yard pole, pedestal, or other meter loops only.**

- (i) Yard pole, pedestal, or other meter loops only \$46.00
- (ii) Meters installed remote from the service equipment and inspected at the same time as a service, temporary service or other installations \$11.00

**(f) Emergency inspections requested outside of normal working hours.**

Regular fee plus surcharge of: \$87.00

**(g) Generators.**

**Note:**

Permanently installed generators: Refer to the appropriate residential or commercial new/altered service or feeder section.

Portable generators: Permanently installed transfer equipment for portable generators \$64.00

**(h) Electrical - annual permit fee.**

**Note:**

See WAC 296-46B-900(14).

For commercial/industrial location employing full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor. Note, all yearly maintenance contracts must detail the number of contractor electricians necessary to complete the work required under the contract. This number will be used as a basis for calculating the appropriate fee. Each inspection is based on a 2-hour maximum.

	<b>Inspections</b>	<b>Fee</b>
1 to 3 plant electricians	12	\$1,677.00
4 to 6 plant electricians	24	\$3,356.00
7 to 12 plant electricians	36	\$5,034.00
13 to 25 plant electricians	52	\$6,713.00
More than 25 plant electricians	52	\$8,392.00

**(i) Telecommunications - annual permit fee.**

**Note:**

- (1) See WAC 296-46B-900(13).
- (2) Annual inspection time required may be estimated by the purchaser at the rate for "OTHER INSPECTIONS" in this section, charged portal-to-portal per hour.

For commercial/industrial location employing full-time telecommunications maintenance staff or having a yearly maintenance contract with a licensed electrical/telecommunications contractor.

2-hour minimum	\$139.00
Each additional hour, or portion thereof, of portal-to-portal inspection time	\$69.00

**(j) Permit requiring ditch cover inspection only.**

Each 1/2 hour, or portion thereof	\$35.00
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**(k) Cover inspection for elevator/conveyance installation. This item is only available to a licensed/registered elevator contractor.**

	\$58.00
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**(6) Carnival inspections.**

**(a) First carnival field inspection each calendar year.**

(i) Each ride and generator truck	\$16.00
(ii) Each remote distribution equipment, concession, or gaming show	\$5.00
(iii) If the calculated fee for first carnival field inspection above is less than \$89.00, the minimum inspection fee shall be:	\$87.00

**(b) Subsequent carnival inspections.**

(i) First ten rides, concessions, generators, remote distribution equipment, or gaming show	\$87.00
(ii) Each additional ride, concession, generator, remote distribution equipment, or gaming show	\$5.00

**(c) Concession(s) or ride(s) not part of a carnival.**

(i) First field inspection each year of a single concession or ride, not part of a carnival	\$69.00
(ii) Subsequent inspection of a single concession or ride, not part of a carnival	\$46.00

**(7) Trip fees.**

(a) Requests by property owners to inspect existing installations. (This fee includes a maximum of one hour of inspection time. All inspection time exceeding one hour will be charged at the rate for progressive inspections.)	\$69.00
(b) Submitter notifies the department that work is ready for inspection when it is not ready.	\$35.00
(c) Additional inspection required because submitter has provided the wrong address or incomplete, improper or illegible directions for the site of the inspection.	\$35.00
(d) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work.	\$35.00

(e) Each trip necessary to remove a noncompliance notice.	\$35.00
(f) Corrections that have not been made in the prescribed time, unless an exception has been requested and granted.	\$35.00
(g) Installations that are covered or concealed before inspection.	\$35.00

**(8) Progress inspections.**

**Note:**

The fees calculated in subsections (1) through (6) of this section will apply to all electrical work. This section will be applied to a permit where the permit holder has requested additional inspections beyond the number supported by the permit fee calculated at the rate in subsections (1) through (6) of this section.

**On partial or progress inspections, each 1/2 hour.**

	\$35.00
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**(9) Plan review.**

Fee is thirty-five percent of the electrical work permit fee as determined by WAC 296-46B-905, plus a plan review submission and shipping/handling fee of:

(a) Supplemental submissions of plans per hour or fraction of an hour of review time.	\$69.00
(b) Plan review shipping and handling fee.	\$16.00

**(10) Out-of-state inspections.**

- (a) Permit fees will be charged according to the fees listed in this section.
- (b) Travel expenses:

All travel expenses and per diem for out-of-state inspections are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in subsection (11) of this section.

**(11) Other inspections.**

Inspections not covered by above inspection fees must be charged portal-to-portal per hour:

	\$69.00
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**(12) Refund processing fee.**

All requests for permit fee refunds will be assessed a processing fee. (Refund processing fees will not be charged for electrical contractors, using the contractor deposit system, who request less than twenty-four refunds during a rolling calendar year.)

	\$11.00
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**(13) Variance request processing fee.**

Variance request processing fee. This fee is nonrefundable once the transaction has been validated.

	\$69.00
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**(14) Marking of industrial utilization equipment.**

(a) Standard(s) letter review (per hour of review time).	\$69.00
(b) Equipment marking - charged portal-to-portal per hour:	\$69.00

(c) All travel expenses and per diem for in/out-of-state review and/or equipment marking are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in (b) of this subsection.

**(15) Class B basic electrical work labels.**

(a) Block of twenty Class B basic electrical work labels (not refundable).	\$200.00
(b) Reinspection of Class B basic electrical work to assure that corrections have been made (per 1/2 hour timed from leaving the previous inspection until the reinspection is completed). See WAC 296-46B-900.	\$36.40
(c) Reinspection of Class B basic electrical work because of a failed inspection of another Class B label (per 1/2 hour from previous inspection until the reinspection is completed). See WAC 296-46B-900.	\$36.40

(16) **Provisional electrical work permit labels.**

(a) Block of twenty provisional electrical work permit labels. \$200.00

**WSR 07-13-091**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed June 19, 2007, 1:23 p.m.]

Title of Rule and Other Identifying Information: Revision of WAC 296-20-01002 Definitions—Refill and 296-20-03011(4) Evidence-based prescription drug program, to include "the refill of an immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks" as a basis for exemption from preferred drug substitution as required by RCW 69.41.190.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Josh Swanson, Department of Labor and Industries, P.O. Box 44321, Olympia, WA 98504-4321, fax (360) 902-6805, e-mail swaj235@lni.wa.gov, AND RECEIVED BY August 21, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To incorporate amendments to RCW 69.41.190 created by SSB 5838 (chapter 233, Laws of 2006).

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030.

Statute Being Implemented: RCW 51.04.020, 51.04.-030, 60.41.190.

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: Jaymie Mai, 7273 Linderson Way S.W., Tumwater, WA, (360) 902-6792; Implementation: Gary Franklin, MD, MPH, Medical Director, (360) 902-5020; and Enforcement: Robert Malooly, Assistant Director for Insurance Services, (360) 902-4209.

June 19, 2007

Judy Schurke  
Director

AMENDATORY SECTION (Amending WSR 04-22-085, filed 11/2/04, effective 12/15/04)

**WAC 296-20-01002 Definitions. Acceptance, accepted condition:** Determination by a qualified representative of the department or self-insurer that reimbursement for the diagnosis and curative or rehabilitative treatment of a claimant's medical condition is the responsibility of the department or self-insurer. The condition being accepted must be specified by one or more diagnosis codes from the current edition of the International Classification of Diseases, Clinically Modified (ICD-CM).

**Appointing authority:** For the evidence-based prescription drug program of the participating agencies in the state purchased health care programs, appointing authority shall mean the following persons acting jointly: The administrator of the health care authority, the secretary of the department of social and health services, and the director of the department of labor and industries.

**Attendant care:** Those proper and necessary personal care services provided to maintain the worker in his or her residence. Refer to WAC 296-20-303 for more information.

**Attending doctor report:** This type of report may also be referred to as a "60 day" or "special" report. The following information must be included in this type of report. Also, additional information may be requested by the department as needed.

(1) The condition(s) diagnosed including ICD-9-CM codes and the objective and subjective findings.

(2) Their relationship, if any, to the industrial injury or exposure.

(3) Outline of proposed treatment program, its length, components, and expected prognosis including an estimate of when treatment should be concluded and condition(s) stable. An estimated return to work date should be included. The probability, if any, of permanent partial disability resulting from industrial conditions should be noted.

(4) If the worker has not returned to work, the attending doctor should indicate whether a vocational assessment will be necessary to evaluate the worker's ability to return to work and why.

(5) If the worker has not returned to work, a doctor's estimate of physical capacities should be included with the report. If further information regarding physical capacities is needed or required, a performance-based physical capacities evaluation can be requested. Performance-based physical capacities evaluations should be conducted by a licensed occupational therapist or a licensed physical therapist. Performance-based physical capacities evaluations may also be conducted by other qualified professionals who provided performance-based physical capacities evaluations to the department prior to May 20, 1987, and who have received written approval to continue supplying this service based on formal department review of their qualifications.

**Authorization:** Notification by a qualified representative of the department or self-insurer that specific proper and necessary treatment, services, or equipment provided for the diagnosis and curative or rehabilitative treatment of an accepted condition will be reimbursed by the department or self-insurer.

**Average wholesale price (AWP):** A pharmacy reimbursement formula by which the pharmacist is reimbursed for the cost of the product plus a mark-up. The AWP is an industry benchmark which is developed independently by companies that specifically monitor drug pricing.

**Baseline price (BLP):** Is derived by calculating the mean average for all NDC's (National Drug Code) in a specific product group, determining the standard deviation, and calculating a new mean average using all prices within one standard deviation of the original mean average. "Baseline price" is a drug pricing mechanism developed and updated by First Data Bank.

**Bundled codes:** When a bundled code is covered, payment for them is subsumed by the payment for the codes or services to which they are incident. (An example is a telephone call from a hospital nurse regarding care of a patient. This service is not separately payable because it is included in the payment for other services such as hospital visits.) Bundled codes and services are identified in the fee schedules.

**By report:** BR (by report) in the value column of the fee schedules indicates that the value of this service is to be determined by report (BR) because the service is too unusual, variable or new to be assigned a unit value. The report shall provide an adequate definition or description of the services or procedures that explain why the services or procedures (e.g., operative, medical, radiological, laboratory, pathology, or other similar service report) are too unusual, variable, or complex to be assigned a relative value unit, using any of the following as indicated:

- (1) Diagnosis;
- (2) Size, location and number of lesion(s) or procedure(s) where appropriate;
- (3) Surgical procedure(s) and supplementary procedure(s);
- (4) Whenever possible, list the nearest similar procedure by number according to the fee schedules;
- (5) Estimated follow-up;
- (6) Operative time;
- (7) Describe in detail any service rendered and billed using an "unlisted" procedure code.

The department or self-insurer may adjust BR procedures when such action is indicated.

**Chart notes:** This type of documentation may also be referred to as "office" or "progress" notes. Providers must maintain charts and records in order to support and justify the services provided. "Chart" means a compendium of medical records on an individual patient. "Record" means dated reports supporting bills submitted to the department or self-insurer for medical services provided in an office, nursing facility, hospital, outpatient, emergency room, or other place of service. Records of service shall be entered in a chronological order by the practitioner who rendered the service. For reimbursement purposes, such records shall be legible, and shall include, but are not limited to:

- (1) Date(s) of service;
- (2) Patient's name and date of birth;
- (3) Claim number;
- (4) Name and title of the person performing the service;
- (5) Chief complaint or reason for each visit;
- (6) Pertinent medical history;

- (7) Pertinent findings on examination;
- (8) Medications and/or equipment/supplies prescribed or provided;
- (9) Description of treatment (when applicable);
- (10) Recommendations for additional treatments, procedures, or consultations;
- (11) X rays, tests, and results; and
- (12) Plan of treatment/care/outcome.

**Consultation examination report:** The following information must be included in this type of report. Additional information may be requested by the department as needed.

- (1) A detailed history to establish:
  - (a) The type and severity of the industrial injury or occupational disease.
  - (b) The patient's previous physical and mental health.
  - (c) Any social and emotional factors which may effect recovery.
- (2) A comparison history between history provided by attending doctor and injured worker, must be provided with exam.
- (3) A detailed physical examination concerning all systems affected by the industrial accident.
- (4) A general physical examination sufficient to demonstrate any preexisting impairments of function or concurrent condition.
- (5) A complete diagnosis of all pathological conditions including ICD-9-CM codes found to be listed:
  - (a) Due solely to injury.
  - (b) Preexisting condition aggravated by the injury and the extent of aggravation.
  - (c) Other medical conditions neither related to nor aggravated by the injury but which may retard recovery.
  - (d) Coexisting disease (arthritis, congenital deformities, heart disease, etc.).
- (6) Conclusions must include:
  - (a) Type of treatment recommended for each pathological condition and the probable duration of treatment.
  - (b) Expected degree of recovery from the industrial condition.
  - (c) Probability, if any, of permanent disability resulting from the industrial condition.
  - (d) Probability of returning to work.
- (7) Reports of necessary, reasonable X-ray and laboratory studies to establish or confirm the diagnosis when indicated.

**Doctor:** For these rules, means a person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; naturopathic physician; podiatry; dentistry; optometry.

Only those persons so licensed may sign report of accident forms and certify time loss compensation except as provided in WAC 296-20-01502, When can a physician assistant have sole signature on the report of accident or physician's initial report? and WAC 296-23-241, Can advanced registered nurse practitioners independently perform the functions of an attending physician?

**Emergent hospital admission:** Placement of the worker in an acute care hospital for treatment of a work related medical condition of an unforeseen or rapidly pro-

gressing nature which if not treated in an inpatient setting, is likely to jeopardize the workers health or treatment outcome.

**Endorsing practitioner:** A practitioner who has reviewed the preferred drug list and has notified the health care authority that he or she has agreed to allow therapeutic interchange of a preferred drug for any nonpreferred drug in a given therapeutic class.

**Fatal:** When the attending doctor has reason to believe a worker has died as a result of an industrial injury or exposure, the doctor should notify the nearest department service location or the self-insurer immediately. Often an autopsy is required by the department or self-insurer. If so, it will be authorized by the service location manager or the self-insurer. Benefits payable include burial stipend and monthly payments to the surviving spouse and/or dependents.

**Fee schedules or maximum fee schedule(s):** The fee schedules consist of, but are not limited to, the following:

(a) Health Care Common Procedure Coding System Level I and II Codes, descriptions and modifiers that describe medical and other services, supplies and materials.

(b) Codes, descriptions and modifiers developed by the department.

(c) Relative value units (RVUs), calculated or assigned dollar values, percent-of-allowed-charges (POAC), or diagnostic related groups (DRGs), that set the maximum allowable fee for services rendered.

(d) Billing instructions or policies relating to the submission of bills by providers and the payment of bills by the department or self-insurer.

(e) Average wholesale price (AWP), baseline price (BLP), and policies related to the purchase of medications.

**Health services provider or provider:** For these rules means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker. It includes, but is not limited to, hospitals, medical doctors, dentists, chiropractors, vocational rehabilitation counselors, osteopathic physicians, pharmacists, podiatrists, physical therapists, occupational therapists, massage therapists, psychologists, naturopathic physicians, and durable medical equipment dealers.

**Home nursing:** Those nursing services that are proper and necessary to maintain the worker in his or her residence. These services must be provided through an agency licensed, certified or registered to provide home care, home health or hospice services. Refer to WAC 296-20-091 for more information.

**Independent or separate procedure:** Certain of the fee schedule's listed procedures are commonly carried out as an integral part of a total service, and as such do not warrant a separate charge. When such a procedure is carried out as a separate entity, not immediately related to other services, the indicated value for "independent procedure" is applicable.

**Medical aid rules:** The Washington Administrative Codes (WACs) that contain the administrative rules for medical and other services rendered to workers.

**Modified work status:** The worker is not able to return to their previous work, but is physically capable of carrying out work of a lighter nature. Workers should be urged to return to modified work as soon as reasonable as such work is

frequently beneficial for body conditioning and regaining self confidence.

Under RCW 51.32.090, when the employer has modified work available for the worker, the employer must furnish the doctor and the worker with a statement describing the available work in terms that will enable the doctor to relate the physical activities of the job to the worker's physical limitations and capabilities. The doctor shall then determine whether the worker is physically able to perform the work described. The employer may not increase the physical requirements of the job without requesting the opinion of the doctor as to the worker's ability to perform such additional work. If after a trial period of reemployment the worker is unable to continue with such work, the worker's time loss compensation will be resumed upon certification by the attending doctor.

If the employer has no modified work available, the department should be notified immediately, so vocational assessment can be conducted to determine whether the worker will require assistance in returning to work.

**Nonemergent (elective) hospital admission:** Placement of the worker in an acute care hospital for medical treatment of an accepted condition which may be safely scheduled in advance without jeopardizing the worker's health or treatment outcome.

**Physician:** For these rules, means any person licensed to perform one or more of the following professions: Medicine and surgery; or osteopathic medicine and surgery.

**Practitioner:** For these rules, means any person defined as a "doctor" under these rules, or licensed to practice one or more of the following professions: Audiology; physical therapy; occupational therapy; pharmacy; prosthetics; orthotics; psychology; nursing; physician or osteopathic assistant; and massage therapy.

**Preferred drug list:** The list of drugs selected by the appointing authority to be used by applicable state agencies as the basis for the purchase of drugs in state purchased health care programs.

**Proper and necessary:**

(1) The department or self-insurer pays for proper and necessary health care services that are related to the diagnosis and treatment of an accepted condition.

(2) Under the Industrial Insurance Act, "proper and necessary" refers to those health care services which are:

(a) Reflective of accepted standards of good practice, within the scope of practice of the provider's license or certification;

(b) Curative or rehabilitative. Care must be of a type to cure the effects of a work-related injury or illness, or it must be rehabilitative. Curative treatment produces permanent changes, which eliminate or lessen the clinical effects of an accepted condition. Rehabilitative treatment allows an injured or ill worker to regain functional activity in the presence of an interfering accepted condition. Curative and rehabilitative care produce long-term changes;

(c) Not delivered primarily for the convenience of the claimant, the claimant's attending doctor, or any other provider; and

(d) Provided at the least cost and in the least intensive setting of care consistent with the other provisions of this definition.

(3) The department or self-insurer stops payment for health care services once a worker reaches a state of maximum medical improvement. Maximum medical improvement occurs when no fundamental or marked change in an accepted condition can be expected, with or without treatment. Maximum medical improvement may be present though there may be fluctuations in levels of pain and function. A worker's condition may have reached maximum medical improvement though it might be expected to improve or deteriorate with the passage of time. Once a worker's condition has reached maximum medical improvement, treatment that results only in temporary or transient changes is not proper and necessary. "Maximum medical improvement" is equivalent to "fixed and stable."

(4) In no case shall services which are inappropriate to the accepted condition or which present hazards in excess of the expected medical benefits be considered proper and necessary. Services that are controversial, obsolete, investigational or experimental are presumed not to be proper and necessary, and shall be authorized only as provided in WAC 296-20-03002(6) and 296-20-02850.

**Refill:** The continuation of therapy with the same drug (including the renewal of a previous prescription or adjustments in dosage) when a prescription is for an antipsychotic, antidepressant, chemotherapy, antiretroviral or immunosuppressive drug, or for the refill of an immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks.

**Regular work status:** The injured worker is physically capable of returning to his/her regular work. It is the duty of the attending doctor to notify the worker and the department or self-insurer, as the case may be, of the specific date of release to return to regular work. Compensation will be terminated on the release date. Further treatment can be allowed as requested by the attending doctor if the condition is not stationary and such treatment is needed and otherwise in order.

**Temporary partial disability:** Partial time loss compensation may be paid when the worker can return to work on a limited basis or return to a lesser paying job is necessitated by the accepted injury or condition. The worker must have a reduction in wages of more than five percent before consideration of partial time loss can be made. No partial time loss compensation can be paid after the worker's condition is stationary. **All time loss compensation must be certified by the attending doctor based on objective findings.**

**Termination of treatment:** When treatment is no longer required and/or the industrial condition is stabilized, a report indicating the date of stabilization should be submitted to the department or self-insurer. This is necessary to initiate closure of the industrial claim. The patient may require continued treatment for conditions not related to the industrial condition; however, financial responsibility for such care must be the patient's.

**Therapeutic alternative:** Drug products of different chemical structure within the same pharmacologic or thera-

peutic class and that are expected to have similar therapeutic effects and safety profiles when administered in therapeutically equivalent doses.

**Therapeutic interchange:** To dispense with the endorsing practitioner's authorization, a therapeutic alternative to the prescribed drug.

**Total permanent disability:** Loss of both legs or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from performing any work at any gainful employment. When the attending doctor feels a worker may be totally and permanently disabled, the attending doctor should communicate this information immediately to the department or self-insurer. A vocational evaluation and an independent rating of disability may be arranged by the department prior to a determination as to total permanent disability. Coverage for treatment does not usually continue after the date an injured worker is placed on pension.

**Total temporary disability:** Full-time loss compensation will be paid when the worker is unable to return to any type of reasonably continuous gainful employment as a direct result of an accepted industrial injury or exposure.

**Unusual or unlisted procedure:** Value of unlisted services or procedures should be substantiated "by report" (BR).

**Utilization review:** The assessment of a claimant's medical care to assure that it is proper and necessary and of good quality. This assessment typically considers the appropriateness of the place of care, level of care, and the duration, frequency or quantity of services provided in relation to the accepted condition being treated.

**AMENDATORY SECTION** (Amending WSR 04-08-040, filed 3/30/04, effective 5/1/04)

**WAC 296-20-03011 What general limitations are in place for medications? (1) Amount dispensed.** The department or self-insurer will pay for no more than a thirty-day supply of a medication dispensed at any one time.

(2) **Over-the-counter drugs.** Prescriptions for over-the-counter items may be paid. Special compounding fees for over-the-counter items are not payable.

(3) **Generic drugs.** Prescriptions are to be written for generic drugs unless the attending physician specifically indicates that substitution is not permitted. For example: The patient cannot tolerate substitution. Pharmacists are instructed to fill with generic drugs unless the attending physician specifically indicates substitution is not permitted.

(4) **Evidence-based prescription drug program.** In accordance with RCW 70.14.050, the department in cooperation with other state agencies may develop a preferred drug list. Any pharmacist filling a prescription under state purchased health care programs as defined in RCW 41.05.011(2) shall substitute, where identified, a preferred drug for any nonpreferred drug in a given therapeutic class, unless the endorsing practitioner has indicated on the prescription that the nonpreferred drug must be dispensed as written, or the prescription is for a refill of an antipsychotic, antidepressant, chemotherapy, antiretroviral, or immunosuppressive drug (see RCW 69.41.190), or for the refill of an immunomodulator/antiviral treatment for hepatitis C for which an estab-



lished, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks or the nonendorsing practitioner has received prior authorization from the department to fill the prescription as written, in which case the pharmacist shall dispense the prescribed non-preferred drug.

**(5) Prescriptions for unrelated medical conditions.**

The department or self-insurer may consider temporary coverage of prescriptions for conditions not related to the industrial injury when such conditions are retarding recovery. Any treatment for such conditions must have prior authorization per WAC 296-20-055. This would apply to any prescription for such conditions even when the endorsing practitioner indicates "dispense as written."

**(6) Pension cases.** Once the worker is placed on a pension, the department or self-insurer may pay for only those drugs and medications authorized for continued medical treatment for conditions previously accepted by the department. Authorization for continued medical and surgical treatment is at the sole discretion of the supervisor of industrial insurance and must be authorized before the treatment is rendered. In such pension cases, the department or self-insurer cannot pay for scheduled drugs used to treat continuing pain resulting from an industrial injury or occupational disease.