

WSR 12-21-011**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed October 5, 2012, 3:24 p.m.]

The department is formally withdrawing its proposed rule, chapter 16-29 WAC, Animal disease traceability. This proposal was proposed in WSR 12-16-009 [12-16-099] on August 1, 2012. Public hearings on the proposal were held on September 6 and 7, 2012. After reviewing the public comments on the proposal, the department has decided to withdraw it.

WSR 12-21-014**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed October 5, 2012, 3:45 p.m.]

The department is formally withdrawing its proposed amendments to WAC 16-610-020. This amendment was proposed in WSR 12-16-097 on August 1, 2012. Public hearings on the proposed amendments were held on September 6 and 7, 2012. After reviewing the public comments on the amendments, the department has decided to withdraw WAC 16-610-020 Cattle inspections for brands or other proof of ownership. The department will be adopting WAC 16-610-065 Livestock identification fees.

WSR 12-21-023**PROPOSED RULES
GAMBLING COMMISSION**

[Filed October 8, 2012, 3:28 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-17-085.

Title of Rule and Other Identifying Information: Amending WAC 230-15-405 Paying out prizes on a player-supported jackpot.

Hearing Location(s): Comfort Inn Conference Center (tentative), 1620 74th Avenue S.W., Tumwater, WA 98501 (NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time), on January 10 or 11, 2013, at 9:30 a.m. or 1:30 p.m.

Date of Intended Adoption: January 10 or 11, 2013.

NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Submit Written Comments to: Susan Newer, P.O. Box 42400, Olympia, WA 98504-2400, e-mail Susan.Newer@wsgc.wa.gov, fax (360) 486-3625, by December 24, 2012.

Assistance for Persons with Disabilities: Contact Gail Grate by January 1, 2013, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: We have received a petition from [for] rule change from Linda Bullard, representing Hawk's Prairie Casino requesting an amendment to increase the amount of payout in chips or cash for player-supported jackpot prizes from \$2,500 to \$5,000.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0282.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Linda Bullard, representing Hawk's Prairie Casino, private.

Name of Agency Personnel Responsible for Drafting: Susan Newer, 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 was not prepared because the proposed rule change does not impose additional costs on businesses.

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.

October 8, 2012

Susan Newer

Rules Coordinator

AMENDATORY SECTION (Amending Order 608, filed 4/10/07, effective 1/1/08)

WAC 230-15-405 Paying out prizes on a player-supported jackpot. (1) Class F or house-banked licensees must award all player-supported jackpot funds as prizes; and

(2) ~~((Cash))~~ Prizes of ~~((two thousand five hundred))~~ five thousand dollars or less may be paid in cash or chips; and

(3) Prizes not awarded in cash must be paid within twenty-four hours with a check that provides a duplicate copy; and

(4) Licensees must maintain a record of all prizes paid in the format we prescribe; and

(5) When a player wins a prize of five hundred dollars or more, in view of the surveillance camera, the dealer must:

(a) Display the value and suit of each card in the winning hand; and

(b) Count and put in numerical order by suit the remaining cards in the deck to confirm a complete deck; and

(6) Licensees must collect the hand and seal it with a copy of the prize record. Licensees must keep the winning hand and remaining deck on the business premises for seven days.

WSR 12-21-024
PROPOSED RULES
GAMBLING COMMISSION

[Filed October 8, 2012, 3:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-17-058.

Title of Rule and Other Identifying Information: Amending WAC 230-11-010 Number tickets consecutively.

Hearing Location(s): Comfort Inn Conference Center (tentative), 1620 74th Avenue S.W., Tumwater, WA 98501 (NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time), on January 10 or 11, 2013, at 9:30 a.m. or 1:30 p.m.

Date of Intended Adoption: January 10 or 11, 2013.

NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Submit Written Comments to: Susan Newer, P.O. Box 42400, Olympia, WA 98504-2400, e-mail Susan.Newer@wsgc.wa.gov, fax (360) 486-3625, by December 24, 2012.

Assistance for Persons with Disabilities: Contact Gail Grate by January 1, 2013, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: James Williams, a volunteer that assists nonprofit organizations with raffles and fund raisers is request[ing] that charitable and nonprofit organizations be allowed to sell raffle tickets that are not consecutively numbered for raffles that take place during the same event at the same location. The intent of this change is to allow organizations to use up left over theatre style tickets from previous raffles rather than throw them away. This may result in gaps in ticket numbering. This would be limited to raffles that take place during the same event at the same location and a raffle ticket distribution log must be maintained.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0277.

Statute Being Implemented: Not applicable.

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

Name of Proponent: James Williams, private.

Name of Agency Personnel Responsible for Drafting: Susan Newer, 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 was not prepared because the proposed rule change does not impose additional costs on businesses.

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.

October 8, 2012
Susan Newer
Rules Coordinator

AMENDATORY SECTION (Amending Order 602, filed 9/26/06, effective 1/1/08)

WAC 230-11-010 Number tickets consecutively. All raffle tickets must:

- (1) Be consecutively numbered; or
- (2) Be printed with numbers which do not repeat within the population of all tickets sold for a particular raffle. All aspects of the raffle must take place during the same event at the same location and you must maintain a raffle ticket distribution log in the format we require; or
- (3) Be printed with letters or symbols which do not repeat within the population of all tickets sold for a particular raffle.

WSR 12-21-026
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed October 9, 2012, 9:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-17-091.

Title of Rule and Other Identifying Information: Division of child support (DCS) proposes to adopt new sections and amended sections in chapter 388-14A WAC, intended as technical corrections to the rules adopted under WSR 11-22-116 which took effect on December 3, 2011. Those rules were adopted to implement changes in the federal regulations concerning establishing and enforcing intergovernmental child support obligations.

AMENDED SECTIONS: WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement?, 388-14A-1025 What are the responsibilities of the division of child support?, 388-14A-1030 What kinds of services can the division of child support provide?, 388-14A-1036 Who can request DCS locate services?, 388-14A-1050 The division of child support cooperates with tribes and other states and (~~Indian tribes~~) countries for support enforcement purposes, 388-14A-1055 Can the division of child support collect support owed or assigned to another state, tribe or country?, 388-14A-2000 Who can receive child support enforcement services from the division of child support?, 388-14A-2010 Can I apply for support enforcement services if I do not receive public assistance?, 388-14A-2015 Does DCS accept an application from someone who is not a resident of Washington state?, 388-14A-3350 Are there any limits on how much back support the division of child support can seek to establish?, 388-14A-3370 What legal defenses are available to a noncus-

todial parent when DCS seeks to enforce a support obligation?, 388-14A-3800 Once a support order is entered, can it be changed?, 388-14A-3810 Once an administrative child support order is entered, how long does the support obligation last?, 388-14A-3900 Does DCS review my support order to see if it should be modified?, 388-14A-3901 Under what circumstances does DCS review a support order for modification?, 388-14A-3925 Who can ask to modify an administrative support order?, 388-14A-7100 The division of child support may register an order from a tribe or another state or country for enforcement or modification, 388-14A-7110 The division of child support may enforce interest on amounts owed under support orders entered or established in a jurisdiction other than Washington state, 388-14A-7115 Are there special rules for a hearing on a notice seeking to enforce interest on a support order?, 388-14A-7120 When does DCS update the interest on an intergovernmental case for enforcement?, 388-14A-7400 What can I do if I want to contest an ((interstate)) intergovernmental order to withhold income served on my employer?, 388-14A-7500 What can I do if I am concerned about the release of my personal information in an ((interstate)) intergovernmental referral?, and 388-14A-8300 Who pays for genetic testing when paternity is an issue?

NEW SECTIONS: WAC 388-14A-7600 Does DCS provide the same services in an intergovernmental case as it provides in a case where both parties reside in the state of Washington?, 388-14A-7610 The division of child support complies with federal requirements regarding intergovernmental cases, 388-14A-7620 How does DCS provide information to another jurisdiction in an intergovernmental case?, 388-14A-7630 What limited services does DCS provide?, 388-14A-7640 Payment and recovery of costs in intergovernmental IV-D cases, 388-14A-7650 What kind of federal audit requirements are there for intergovernmental cases?, 388-14A-7700 How does the division of child support (DCS) decide that a new case is an intergovernmental case?, 388-14A-7710 What does the division of child support (DCS) do when it decides that a case is an intergovernmental case?, 388-14A-7720 What is the division of child support (DCS) required to do when Washington is the initiating jurisdiction in an intergovernmental case?, 388-14A-7800 What is the division of child support (DCS) required to do when Washington receives a request for intergovernmental child support services?, 388-14A-7810 What is the division of child support (DCS) required to do when DCS receives a request for a determination of controlling order?, and 388-14A-7820 What is the division of child support (DCS) required to do when DCS acts as the responding jurisdiction in an intergovernmental case?

Hearing Location(s): Office Building 2, Lookout Room, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on December 11, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 12, 2012.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98503, e-mail

DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on December 11, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by November 27, 2012, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: New sections and/or amendments in chapter 388-14A WAC, intended as technical corrections to the rules adopted under WSR 11-22-116 which took effect on December 3, 2011. Those rules were adopted to implement changes in the federal regulations concerning establishing and enforcing intergovernmental child support obligations. The federal Office of Child Support Enforcement (OCSE) requested that DCS make these changes as a condition of approving the state plan under Title IV-D of the federal Social Security Act. Failure to do this would jeopardize funding for the child support program and the TANF block grant. These technical corrections are mainly to change references to "interstate cases" to "intergovernmental cases." DCS does not anticipate making any significant policy changes in this rule-making process, but such changes may be necessary in order to amend chapter 388-14A WAC to comply with 45 C.F.R. Parts 301.1, 302.36, 303.7, 303.11, 305.63 and 308.2. For a list of section numbers and titles, see above.

Reasons Supporting Proposal: DCS must adopt rules to implement federal regulations as part of its state plan under Title IV-D of the federal Social Security Act. Failure to adopt such rules could lead to a violation of the state plan requirements, which would jeopardize funding for the child support program and the TANF block grant. OCSE has requested that certain corrections be made in order for the state plan to be approved.

Statutory Authority for Adoption: RCW 26.23.120, 34.05.350 (1)(b), 43.20A.550, 74.04.055, 74.08.090, 74.20-040(9), 74.20A.310.

Statute Being Implemented: RCW 74.20A.310.

Rule is necessary because of federal law, 45 C.F.R. Parts 301.1, 302.36, 303.7, 303.11, 305.63 and 308.2.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Koptur, DCS HQ, P.O. Box 9162, Olympia, WA 98507-9162, (360) 664-5065.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have an economic impact on small businesses. It only affects individuals who have support obligations or individuals who are owed child support.

A cost-benefit analysis is not required under RCW 34.05.328. The rule does meet the definition of a significant legislative rule but DSHS/DCS rules relating to the care of dependent children are exempt from preparing further analysis under RCW 34.05.328 (5)(b)(vii).

October 5, 2012
Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 12-22 issue of the Register.

WSR 12-21-034**PROPOSED RULES****DEPARTMENT OF ECOLOGY**

[Order 08-07—Filed October 9, 2012, 4:21 p.m.]

Continuance of WSR 12-17-084.

Preproposal statement of inquiry was filed as WSR 11-22-024.

Title of Rule and Other Identifying Information: The department of ecology (ecology) proposes to adopt amendments to certain portions of the sediment management standards (SMS) regulations, chapter 173-204 WAC. This rule defines the requirements for managing contaminated sediments in Washington.

Date of Intended Adoption: December 14, 2012.

Submit Written Comments to: Adrienne Dorrah, Department of Ecology, Toxics Cleanup Program, P.O. Box 47600, Olympia, WA 98504, e-mail RuleUpdate@ecy.wa.gov, fax (360) 407-7154, by October 29, 2012.

Assistance for Persons with Disabilities: Contact Adrienne Dorrah at (360) 407-7195 by October 17, 2012. Persons with hearing loss, call 711 for Washington relay service. Persons with a speech disability, call (877) 833-6341.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Extend the comment period for written comments from October 15 to October 29, 2012.

Reasons Supporting Proposal: The comment period is being extended in response to requests from the public.

Statutory Authority for Adoption: The Model Toxics Control Act, chapter 70.105D RCW, and the Water Pollution Control Act, chapter 90.48 RCW.

Statute Being Implemented: Chapter 70.105D RCW, Model Toxics Control Act.

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: Chance Asher, Department of Ecology, Lacey, Washington, (360) 407-6914; and **Enforcement:** Jim Pendowski, Department of Ecology, Lacey, Washington, (360) 407-7177.

October 9, 2012

Polly Zehm
Deputy Director

WSR 12-21-040**PROPOSED RULES****LIQUOR CONTROL BOARD**

[Filed October 10, 2012, 1:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-15-086.

Title of Rule and Other Identifying Information: WAC 314-19-005 What is the purpose of chapter 314-19 WAC?, 314-19-010 Definitions, 314-19-015 What are the monthly reporting and tax payment requirements?, 314-19-020 What if a licensee doesn't report or pay the taxes due, or reports or pays late?, 314-19-030 How can a licensee claim a credit or refund for tax-paid product?, 314-19-040 Is there any exception to the additional tax imposed on fortified wine?, 314-24-070 Domestic wineries—Purchase and use of bulk wines, brandy or wine spirits—Import permit required—Records—Wine returned to Washington, and 314-24-120 Importation of foreign wine—United States wineries—Monthly reports—Records.

Hearing Location(s): Washington State Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Lacey, WA 98504, on November 28, 2012, at 10:00 a.m.

Date of Intended Adoption: December 5, 2012.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 664-9689, by November 28, 2012.

Assistance for Persons with Disabilities: Contact Karen McCall by November 28, 2012, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SB 5259 was passed in the 2012 legislative session. The bill allows small wineries to report annually instead of monthly. Five rules need to be revised in chapter 314-19 WAC and one rule in chapter 314-19 WAC needs to be repealed to allow monthly reporting for small wineries. In addition, two rules in chapter 314-24 WAC need to be revised.

Reasons Supporting Proposal: Current rules need to be revised for this allowance.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.210, 66.24-230.

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

Name of Proponent: Washington state liquor control board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; **Implementation:** Alan Rathbun, Licensing Director, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and **Enforcement:** Justin Nordhorn, Enforcement Chief, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is to implement 2012 legislation.

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

October 10, 2012

Sharon Foster
Chairman

AMENDATORY SECTION (Amending WSR 07-02-076, filed 12/29/06, effective 1/29/07)

WAC 314-19-005 What is the purpose of chapter 314-19 WAC? The purpose of this chapter is to outline the beer and wine tax reporting and payment requirements for the following liquor licensees and ~~((permitees))~~ permit holders:

Type of liquor license	Laws that outline tax rates and requirements
(a) Washington beer and/or wine distributor	RCW 66.24.210, 66.24.230, 66.24.290, 66.24.305
(b) Washington beer and/or wine importer	RCW 66.24.230
(c) Domestic brewery	RCW 66.24.270, 66.24.290, 66.24.305
(d) Domestic brewery/brand owner	RCW 66.24.270, 66.24.290, 66.24.305
(e) Microbrewery	RCW 66.24.270, 66.24.290, 66.24.305
(f) Domestic winery	RCW 66.24.210, 66.24.215, 66.24.230, 66.24.305
(g) Public house	RCW 66.24.290, 66.24.580
(h) Beer certificate of approval holder	RCW 66.24.270
(i) Wine certificate of approval holder	RCW 66.24.210, 66.24.206
(j) Authorized representative certificate of approval holder—U.S. produced beer	RCW 66.04.010, 66.24.261, 66.24.270
(k) Authorized representative certificate of approval holder—foreign produced beer	RCW 66.04.010, 66.24.261, 66.24.270
(l) Authorized representative certificate of approval holder—U.S. produced wine	RCW 66.04.010, 66.24.203, 66.24.206
(m) Authorized representative certificate of approval holder—foreign produced wine	RCW 66.04.010, 66.24.203, 66.24.206
(n) Retailer with an endorsement to receive direct shipments of beer and wine from breweries, microbreweries, or wineries	RCW 66.24.210, 66.24.290, 66.24.270
(o) Wine shipper permit holder	RCW 66.24.210

AMENDATORY SECTION (Amending WSR 07-02-076, filed 12/29/06, effective 1/29/07)

WAC 314-19-010 Definitions. The following definitions are to clarify the purpose and intent of the rules and laws

governing beer and wine tax reporting and payment requirements. Additional definitions can be found in RCW 66.04-010.

(1) "Late." A ~~((monthly))~~ tax payment is considered late if it is unpaid on the due date and remains unpaid until the twentieth day of the following month.

(2) "Missing." A ~~((monthly))~~ tax report and tax payment, if taxes are owed, is considered missing if it is more than thirty days past the required filing date.

(3) "Samples" are beer and/or wine furnished to retail licensees for the purpose of negotiating a sale, per RCW 66.28.040. See WAC 314-64-080 for sampling procedures.

(4) "Tastings" are beer and/or wine products provided to customers at no charge for the purpose of promoting a sale, that are consumed on the premises of a domestic brewery, microbrewery, winery, or additional winery locations as authorized by RCW 66.24.170(4). Tastings are not taxable under this title.

AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-19-015 What are the ~~((monthly))~~ reporting and tax payment requirements? (1) The required ~~((monthly))~~ beer and/or wine tax reports must be:

(a) On a form furnished by the board or in a format approved by the board;

(b) Filed every month, including months with no activity or taxes due. A winery or wine certificate of approval holder with total taxable sales of wine in Washington state of six thousand gallons or less during the calendar year may elect to file annually;

(c) Submitted, with the tax due, to the board on or before the twentieth day of ~~((each))~~ the month following the end of the reporting period, for the previous ~~((month))~~ reporting period (for example, a monthly report listing transactions for the month of January is due by February 20; an annual report listing transactions for 2012 is due by January 20, 2013). When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each type of liquor license or permit held.

(2) Wineries, wine certificate of approval holders and wine shippers who elect to file annually:

(a) Must have taxable sales of wine in Washington state of six thousand gallons or less during the calendar year;

(b) New licensees who anticipate taxable sales of wine in Washington state of less than six thousand gallons must request by notifying the liquor control board within thirty days of license issuance that they would like to file annually;

(c) May only change reporting frequency (to annual filing or off annual filing) at the beginning of a calendar year, effective month must be January;

(d) Are required to file multiple reports in the event of a midyear tax rate change (for example, the tax rate changes June 1st; annual filer will submit two reports. One for January 1st through May 31st and one for June 1st through

December 31st. Both are due January 20th following the end of the reporting period);

(e) Must submit a report the month following the month the license has been discontinued or business closed (for example, annual filer closes business/discontinued license May 25th, report is due June 20th).

Type of Licensee	Tax Payment Requirements
<p>((2)) (3) Washington beer and/or wine distributor</p>	<p>(a) Distributors must pay taxes on all beer and/or wine received during the preceding calendar month, including samples received at no charge (see WAC 314-64-080 and 314-64-090 for more information). The total tax due (per barrel for beer and per liter for wine) is to be paid by the first distributor to receive the product and must be included with the monthly report.</p> <p>(b) Distributors do not pay taxes on beer and/or wine received from another in-state licensed distributor who has already paid the Washington state tax on the product.</p> <p>(c) Distributors may claim a tax refund or credit, provided that they have paid the taxes prior to claiming the credit, for the following (see WAC 314-19-030 for information on claiming a tax refund or credit):</p> <p>(i) Shipments exported directly to a point outside the state of Washington, including sales to interstate common carriers;</p> <p>(ii) Sales to any military reservation in Washington state;</p> <p>(iii) Product that is deemed unsalable due to freight damage, product quality, or other causes that occurred prior to receipt by the distributor, subject to the following conditions:</p> <p>(A) The unsalable product must be destroyed within the state of Washington (per RCW 66.24.305);</p> <p>(B) The licensee must notify their local liquor enforcement officer in advance for destruction of more than fifty cases of wine or two hundred cases of beer;</p> <p>(C) The licensee must report the destroyed product on the next required monthly report;</p> <p>(D) The licensee must keep records showing the reason for the destruction and an inventory of products destroyed. These records must be kept on the licensed premises and available for inspection by board employees for a period of two years; and</p> <p>(E) The licensee must provide documentation from the freight company with the report if they are claiming a credit due to freight damage.</p>
<p>((3)) (4) Washington beer and/or wine importers</p>	<p>Importers must pay taxes on samples received during the preceding calendar month, as follows:</p> <p>(a) If the samples are used by the importer within the state of Washington, the importer must pay the tax.</p> <p>(b) If samples are provided to a distributor, the distributor must pay the tax.</p>

Type of Licensee	Tax Payment Requirements
<p>((4)) (5) Domestic breweries, microbreweries, and domestic wineries</p>	<p>(a) Domestic breweries, microbreweries, and domestic wineries must list production for the current ((month)) reporting period only. The brewery that the domestic brewery/brand owner contracts with is required to include any products they produce for the brand owner in their production count.</p> <p>(b) Domestic breweries, microbreweries, and domestic wineries must pay taxes on beer and/or wine that is:</p> <p>(i) Sold at retail on the licensed premises (or shipped to additional winery locations as authorized by RCW 66.24.170(4)), including retail sales to out-of-state residents;</p> <p>(ii) Sold to retail licensees;</p> <p>(iii) Furnished as samples to retail licensees as authorized by RCW 66.28.040, WAC 314-64-080, and 314-64-090 (does not include samples provided to distributors);</p> <p>(iv) Provided as donations to qualifying 501 (c)(3) or (6) nonprofit organizations per RCW 66.28.040 or to the Washington wine commission per RCW 66.12.180 and 66.24.210;</p> <p>(v) Received via an interplant transfer if used as outlined in above subsections (i), (ii), (iii), or (iv);</p> <p>(vi) Sold at farmers markets as authorized by RCW 66.24.170(5), 66.24.240(4) and/or 66.24.244(5); or</p> <p>(vii) Wine that has been shipped out-of-state as nontax paid export and returned to Washington state if used as outlined in (b)(i), (ii), (iii), (iv), or (vi) of this subsection.</p> <p>(c) Domestic breweries, microbreweries, and domestic wineries do not pay tax on beer and/or wine that is:</p> <p>(i) Sold to <u>or furnished as samples to</u> distributors;</p> <p>(ii) Shipped out of a particular location for an interplant transfer;</p> <p>(iii) Exported directly to a point outside the state of Washington, including sales to interstate common carriers;</p> <p>(iv) (Sold to the Washington state liquor control board;</p> <p>(+)) Sold to any military reservation in Washington state; or</p> <p>((+)) (v) Provided as a tasting on the brewery or winery premises or at additional winery locations at no charge, as authorized by RCW 66.24.170(4). See WAC 314-19-010(3) for the definition of "tastings."</p>
<p>((5)) (6) Domestic brewery—Brand owners</p>	<p>(a) Domestic brewery-brand owners must file a report showing the quantity of all beer sold or delivered to each licensed beer distributor, or beer exported directly to a point outside the state of Washington, during the preceding ((month)) reporting period.</p> <p>(b) Domestic brewery-brand owners are not responsible for the tax on beer that is contract produced.</p>

Type of Licensee	Tax Payment Requirements
((6)) (7) Out-of-state beer and/or wine certificate of approval holders	<p>(a) Certificate of approval holders must file a report showing the quantity of all beer and/or wine sold or delivered to each licensed beer or wine distributor or importer, including samples, during the preceding ((month)) reporting period.</p> <p>(b) Tax is due from the certificate of approval holder:</p> <p>(i) On samples shipped to licensed agents, and</p> <p>(ii) On donations to the Washington wine commission per RCW 66.12.180 and 66.24.210 or to 501 (c)(3) nonprofit charitable associations within Washington state per RCW 66.28.040.</p>
((7)) (8) Out-of-state United States beer and/or wine certificate of approval holders with a direct shipping to Washington retailer endorsement	<p>(a) Certificate of approval holders with this endorsement must file an addendum report showing the quantity of beer and/or wine sold or delivered to each licensed retailer, including samples, during the preceding ((month)) reporting period.</p> <p>(b) Tax is due from the certificate of approval holder on beer and/or wine sold or delivered to retail licensees and on sales to nonprofit charitable associations.</p>
((8)) (9) Out-of-state United States wine certificate of approval holders with a direct shipping to consumers endorsement	<p>(a) A certificate of approval holder with this endorsement must report the total quantity of wine sold to consumers in Washington state during the preceding ((month)) reporting period.</p> <p>(b) Tax is due from the certificate of approval holder on wine sold or delivered to Washington state residents.</p>
((9)) (10) Authorized representative certificate of approval holders-U.S. and/or foreign produced beer or wine	<p>(a) Authorized representative certificate of approval holders must file a report showing the quantity of all beer and/or wine sold or delivered to each licensed beer or wine distributor or importer, including samples. They must list the brewery and/or winery that they represent and that had shipments into Washington state during the preceding month.</p> <p>(b) Tax is due from the authorized representative beer and/or wine certificate of approval holders only on samples shipped to licensed agents, directly to retailers per WAC 314-64-080 and 314-64-090, donations to the Washington wine commission per RCW 66.12.180 and 66.24.210, or to 501 (c)(3) nonprofit charitable associations within Washington state per RCW 66.28.040.</p>
((10)) (11) Public house licensees	Public house licensees must pay taxes on all sales of their own product during the preceding calendar month.
((11)) (12) Retailer with an endorsement allowing receipt of direct shipment of beer or wine from a United States brewery, micro-brewery, or winery	A Washington retailer who receives shipments directly from a United States brewery, micro-brewery, or winery, outside Washington, must file a report showing the quantity of beer and wine received by direct shipment from each licensed beer or wine producer, including samples, during the preceding month.
((12)) (13) Wine shipper permit holder	(a) An out-of-state winery must file a report showing the total quantity of wine sold or delivered to consumers during the preceding ((month)) reporting period.

Type of Licensee	Tax Payment Requirements
	(b) Pay the tax due for sales of wine to Washington state residents.

AMENDATORY SECTION (Amending WSR 07-02-076, filed 12/29/06, effective 1/29/07)

WAC 314-19-020 What if a licensee doesn't report or pay the taxes due, or reports or pays late? The board may take the following actions against a licensee or ~~((permittee))~~ permit holder in order to collect any of the reports or taxes due that are outlined in this title.

(1) Suspension or revocation of license	<p>(a) Failure to make a report and/or pay the taxes in the manner and dates outlined in this chapter will be sufficient ground for the board to suspend or revoke a liquor license, wine shipper permit, or certificate of approval (per RCW 66.08.150, 66.24.010, 66.24.120, 66.24.206, 66.20.370, 66.20.380, and 66.24.270).</p> <p>(b) The suspension will remain in effect until all missing reports and/or taxes have been filed with the board (see WAC 314-19-010(1) for the definition of "missing").</p>
(2) Penalties	A penalty of two percent per month will be assessed on any tax payments postmarked after the twentieth day of the month following the ((month)) reporting period of ((sale)) the <u>transactions</u> (per the reporting requirements outlined in WAC 314-19-015, RCW 66.24.290, and 66.24.210). When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.
(3) Surety bond requirements	<p>(a) What is a surety bond? A "surety bond" is a type of insurance policy that guarantees beer and/or wine tax payment to the state. The surety bond must be:</p> <p>(i) Executed by a surety company authorized to do business in the state of Washington;</p> <p>(ii) On a form and in an amount acceptable to the board;</p> <p>(iii) Payable to the Washington state liquor control board; and</p> <p>(iv) Conditioned that the licensee will pay the taxes and penalties levied by RCW 66.24.210 and/or 66.24.290.</p> <p>(v) As an option to obtaining a surety bond, a licensee may create an assignment of savings account for the board in the same amount as required for a surety bond. Requests for this option must be submitted in writing to the board's financial division.</p>

	<p>(b) When will the board require a surety bond? The board may require a surety bond from a Washington beer and/or wine distributor, domestic microbrewery, domestic brewery, public house, domestic winery, wine shipper, or a beer or wine certificate of approval holder that has a direct shipment privilege. If any of the following occur, the board may require the licensee or ((permittee)) <u>permit holder</u> to obtain a surety bond or assignment of savings account, within twenty-one days after an administrative violation notice is issued:</p> <p>(i) A report or tax payment is missing, as defined in WAC 314-19-010, for two or more consecutive months; or</p> <p>(ii) A report or tax payment is missing, as defined in WAC 314-19-010, two or more times within a two year period.</p> <p>(c) What will happen if the licensee does not acquire the surety bond or savings account? Failure to meet the bonding or savings account requirements outlined in subsections (a) and (b) of this rule may result in immediate suspension of license privileges until all missing reports are filed and late taxes have been paid and the surety bond is acquired or the savings account is established.</p> <p>(d) In what amount and for how long will the board require a surety bond? The amount of a surety bond or savings account required by this chapter must be either \$3,000, or the total of the highest four months' worth of tax liability for the previous twelve month period, whichever is greater.</p> <p>(i) The licensee or ((permittee)) <u>permit holder</u> must maintain the bond for at least two years. After the two year period the licensee or ((permittee)) <u>permit holder</u> may request an exemption as outlined in subsection (f) of this rule.</p> <p>(ii) Surety bond and savings account amounts may be reviewed annually and compared to the last twelve months' tax liability of the licensee. If the current bond or savings account amount does not meet the requirements outlined in this section, the licensee or ((permittee)) <u>permit holder</u> will be required to increase the bond amount or amount on deposit within twenty-one days.</p> <p>(e) What action will the board take when a licensee or ((permittee)) <u>permit holder</u> holds a surety bond and does not pay taxes due or pays late? If a licensee or ((permittee)) <u>permit holder</u> holds a surety bond or savings account, the board will immediately start the process to collect overdue taxes from the surety company or assigned account. If the exact amount of taxes due is not known due to missing reports, the board will estimate the taxes due based on previous production, receipts, and/or sales.</p>
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	<p>(f) Can a licensee or ((permittee)) <u>permit holder</u> request an exemption to the surety bond or savings account requirement? A licensee or ((permittee)) <u>permit holder</u> may make a written request to the board's financial division for an exemption from the surety bond or assignment of savings account requirements. The board will grant an exemption once the following criteria are met:</p> <p>(i) The licensee or ((permittee)) <u>permit holder</u> has filed reports and paid applicable taxes to the board for at least two years immediately prior to the exemption request; and</p> <p>(ii) There have been no late or missing reports or tax payments during the previous two years.</p> <p>(iii) In order to remain exempt from the surety bond or assignment of savings account requirements, the licensee must continue to meet the tax reporting and payment requirements outlined in this title (outlined in WAC 314-19-015, RCW 66.24.206, 66.24.210, 66.24.270, 66.24.290, and 66.24.580).</p>
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AMENDATORY SECTION (Amending WSR 04-24-007, filed 11/19/04, effective 12/20/04)

WAC 314-19-030 How can a licensee claim a credit or refund for tax-paid product?

(1) How to claim a tax credit	(2) How to claim a tax refund
<p>(a) On the next ((monthly)) report <u>filed</u>, show the amount of product for which a tax credit is due in the appropriate section(s) of the form.</p> <p>(b) Deduct the total credit from the total amount due on this report.</p>	<p>(a) A licensee may request a refund, rather than claim a credit, if the amount of the credit is too large to be used in a reasonable amount of time or the licensee has discontinued business.</p> <p>(b) On the next ((monthly)) report <u>filed</u>, the licensee must show the amount of product for which a tax refund is due in the appropriate section(s) of the form.</p> <p>(c) The board will not issue a refund check until the total amount to be refunded accumulates to at least ten dollars.</p>

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-19-040	Is there any exception to the additional tax imposed on fortified wine?
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AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-24-070 Domestic wineries—Purchase and use of bulk wines, brandy or wine spirits—Import permit required—Records—Wine returned to Washington. (1) Domestic wineries may purchase and receive under federal bond from any holder of a domestic winery license, holder of the fruit and/or wine distillery license provided in RCW

66.24.140, or out-of-state holder of a federal winery or fruit distillery basic permit, bulk wine, brandy or bulk wine spirits manufactured or produced by such holder, and use the same in the manufacture or production of wines: Provided, That every domestic winery which imports wine, brandy or wine spirits manufactured outside the state of Washington for use as authorized in this section must first be in possession of a permit issued by the board, in accordance with RCW 66.20.-010(5) of the Washington State Liquor Act. Applications for such permits must be submitted to the board in writing. Such permits expire at the end of the board's fiscal year, and are subject to renewal at that time upon written request and remittance of said annual fee. Wine manufactured or produced from one kind of fruit or berry may not receive wine, brandy or wine spirits manufactured or produced from another kind of fruit or berry. Such brandy or wine spirits so purchased shall be used exclusively and only for the purpose of adding wine spirits to wines. In those cases where the holder of a domestic winery license shall also hold such fruit and/or wine distillery license, then, and in such cases, such domestic winery may use brandy or wine spirits manufactured or produced under such distillery license as a wine spirits addition in the manufacture or production of wine by such holder of the domestic winery license.

(2) Any domestic winery using wine, brandy or wine spirits as provided in subsection (1) of this section, shall make and file with the board, not later than the tenth day of each month upon forms prescribed and furnished by the board, a report showing all transactions of such domestic winery in the purchase and/or use of wine, brandy or wine spirits as provided in said subsection (1), and shall retain one copy of such report in its own files, and shall keep and preserve for a period of not less than two years any bills of lading or other documents supporting such report. One copy of the bill of lading covering such sale and shipment to a domestic winery is to be forwarded to the board by the shipping winery or fruit distillery, at the time of such shipment.

(3) A domestic winery may ship Washington wine out of and may return such wine to Washington state for ultimate sale. The following conditions apply:

(a) The wine is produced in Washington by a licensed winery.

(b) The export shall be from the licensed winery and returned to the same entity.

(c) The returned wine must not have been altered in any way, with the exception of sparkling wine.

(d) A domestic winery returning previously exported Washington wine must comply with tax collection and tracking requirements initiated by the liquor control board.

(e) A domestic winery must keep on file for audit purposes clear source records (shipping documents, etc.) with ((monthly)) reporting documents. Records need to indicate what wine was returned to the state that was previously reported as an export (including number of cases and gallons).

AMENDATORY SECTION (Amending WSR 00-17-065, filed 8/9/00, effective 9/9/00)

WAC 314-24-120 Importation of foreign wine—United States wineries—((Monthly)) Reports—Records.

(1) Foreign wine. Wine manufactured outside of the United States may be imported by a wine importer or distributor under the following conditions:

(a) The wine importer or distributor importing such wine must obtain label approval in accordance with WAC 314-24-040. Such wine shall be imported and delivered directly to either the warehouse of the importer or distributor or to some other warehouse previously designated by the importer or distributor and approved by the board.

(b) All matters pertaining to the importation, transportation, storage, keeping of records, and all other matters pertaining to the importation of wine manufactured outside the United States shall be subject at all times to such orders, rules and regulations as the board may from time to time prescribe, and the board reserves the right to make orders applicable to individual and particular cases in addition to general orders, rules and regulations applicable generally.

(2) Holders of certificate of approval—United States wineries, located outside of Washington state. Each winery holding a certificate of approval may ship wine to licensed wine importers and/or distributors only. As required by section 10, chapter 21, Laws of 1969 ex. sess., and by the written agreement embodied in the application for certificate of approval, each winery holding a certificate of approval shall file the report(s) required by WAC 314-19-015.

WSR 12-21-047

PROPOSED RULES

UNIVERSITY OF WASHINGTON

[Filed October 12, 2012, 10:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-04-104.

Title of Rule and Other Identifying Information: Chapter 478-276 WAC, Governing access to public records.

Hearing Location(s): Room 142 Gerberding Hall, University of Washington, Seattle Campus, on December 7, 2012, at 12:00 noon.

Date of Intended Adoption: January 10, 2013.

Submit Written Comments to: Rebecca Goodwin Dear-dorff, University of Washington, Rules Coordination Office, Box 351210, Seattle, WA 98195-1210, e-mail rules@uw.edu, fax (206) 685-3825, by December 7, 2012.

Assistance for Persons with Disabilities: Contact disability services office by November 21, 2012, TTY (206) 543-6452 or (206) 543-6450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The University of Washington proposes amending chapter 478-276 WAC to better conform to the attorney general's public disclosure model rules, to modify business hours as provided in RCW 42.56.090, and to reflect current business practices.

Statutory Authority for Adoption: RCW 28B.20.130 and chapter 42.56 RCW.

Statute Being Implemented: Chapter 42.56 RCW.

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 Enforcement: Eliza Saunders, Director, Office of Public Records and Open Public Meetings, 4311 11th Avenue N.E., Suite 360, Seattle, WA 98105, (206) 543-9180; and Implementation: Norm Arkans, Associate Vice-President, Media Relations and Communications, Room 202, Gerberding Hall, UW Seattle Campus, (206) 543-2560.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impose a disproportionate impact on small businesses or affect a school district under Title 28A RCW.

A cost-benefit analysis is not required under RCW 34.05.328. The University of Washington does not consider these to be significant legislative rules.

October 12, 2012

Rebecca Goodwin Dearnorff
Director of
Rules Coordination

AMENDATORY SECTION (Amending WSR 06-17-131, filed 8/22/06, effective 9/22/06)

WAC 478-276-010 Purpose. This chapter is enacted by the board of regents of the University of Washington in compliance with the (~~provisions of chapter 42.56 RCW,~~) Public Records Act. The university adopts these rules and regulations so as to provide fullest assistance to inquirers and full public access to the university's public records while protecting those records from damage or disorganization; preventing excessive interference with other essential university functions, including the university's core education and research missions; and not unreasonably disrupting university operations.(⁽¹⁾)

AMENDATORY SECTION (Amending WSR 01-11-136, filed 5/23/01, effective 6/23/01)

WAC 478-276-020 Definitions. (1) (~~"Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics;~~) "Business days" are weekdays, Monday through Friday, excluding official Washington state holidays and university closures.

(2) (~~"Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and~~

~~other documents including existing data compilations from which information may be obtained or translated~~) "Public Records Act" means chapter 42.56 RCW.

(3) "Public records office" means the university's office of public records and open public meetings.

(4) "University" means the state university established under chapter 28B.20 RCW and designated the University of Washington.

AMENDATORY SECTION (Amending Order 73-5, filed 5/29/73)

WAC 478-276-050 Public records available. (~~For public records of the University of Washington, as defined in WAC 478-276-020, are deemed to be~~) The university's public records are available for public inspection and copying pursuant to these rules, except as otherwise provided by law.

AMENDATORY SECTION (Amending WSR 07-03-069, filed 1/17/07, effective 2/17/07)

WAC 478-276-060 Public records officer. (~~For purposes of compliance with chapter 42.56 RCW, the person designated as public records officer for the University of Washington is the director of public records and open public meetings. Duties for this individual shall include but not be limited to: The implementation of the university's rules and regulations regarding release of public records, coordinating the staff of the public records and open public meetings office in this regard, and generally coordinating compliance by the university with the public records disclosure requirements of chapter 42.56 RCW. The person so designated shall be at the following location:~~

University of Washington
Public Records and Open Public Meetings Office
4311 11th Ave. N.E.
Suite 360
Seattle, WA 98105

(~~for internal campus mail use: Box 354997~~;) The university's public records officer is the director of the public records office. The contact information for the public records officer is set forth under WAC 478-276-140.

AMENDATORY SECTION (Amending WSR 06-17-131, filed 8/22/06, effective 9/22/06)

WAC 478-276-080 Requests for public records. (~~In accordance with requirements of chapter 42.56 RCW, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records required to be disclosed by chapter 42.56 RCW, may be inspected or copies of such records may be obtained, by members of the public upon compliance with the following procedures:~~) All requests under the Public Records Act to inspect or copy public records shall be in writing and shall be directed to the (~~director of~~) university's public records (~~and open public meetings~~) officer at the e-mail address, street address, or facsimile number set forth in

WAC 478-276-140. The request shall include the following information:

(1) ~~The requestor's name ((and)), e-mail address ((of the person requesting the records)) or street address, and telephone number; and~~

(2) ~~((The date on which the request was made; and~~

~~(3) The public record(s) requested.)) A request for identifiable public records.~~

An identifiable public record is one for which the requestor has given a reasonable description enabling the university to locate the requested record.

NEW SECTION

WAC 478-276-085 Responses to public records requests. (1) **Responses generally.** The public records office shall respond within five business days of receiving a public records request by:

(a) Providing the records;

(b) Providing an internet address and link to the records on a university web site;

(c) Acknowledging that the request has been received and providing a reasonable estimate of the time required to respond to the request; or

(d) Denying the request.

(2) **Additional time.** Additional time for the office to respond to a request may be based upon the need to:

(a) Clarify the request;

(b) Locate, assemble, and review the records requested;

(c) Notify third persons or agencies affected by the request; or

(d) Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(3) **Request for clarification.** If a public records request is unclear, the public records office may ask the requestor to clarify the request. If the requestor does not respond to a request for clarification or otherwise fails to clarify the records request within five business days, the university need not respond to it, and the university may consider the request abandoned and close it in accordance with WAC 478-276-105.

(4) **Priority of requests.** The public records office will handle requests in the order in which they are received; provided, however, that the public records office will modify this approach as, and to the extent it deems necessary, to ensure that requests which seek larger volumes of records, require closer review, or are otherwise more complicated or time consuming, do not unreasonably delay simpler, more routine requests.

(5) **Installments.** When it appears that the number of records responsive to a request may be large, that the process of locating, assembling, or reviewing the records may be lengthy, or that it is otherwise appropriate, the public records office may choose to provide records on a partial or installment basis. For the purposes of WAC 478-276-090 through 478-276-105, and unless otherwise provided under these rules, each installment of records shall be treated as a separate public records request.

(6) **Customized electronic access.** Where the public records office deems it appropriate, the university may choose to provide customized electronic access to public records; provided, however, that any requestor seeking such customized electronic access must pay, in advance, for university staff time and any other direct costs related to providing such customized electronic access.

AMENDATORY SECTION (Amending Order 81-2, filed 10/2/81)

WAC 478-276-090 ((Commercial purposes.)) Notice of availability. ~~((No provision of any regulation contained in this chapter 478-276 WAC shall be construed as giving authority to any faculty or staff member of the University of Washington to give, sell, or provide access to lists of individuals requested for commercial purposes))~~ (1) **Notice of availability generally.** Once records responsive to a request (or any installment thereof) have been located, assembled, reviewed, and prepared for release, and any affected third persons or agencies notified, the public records office shall promptly notify the requestor that those records are available for inspection or copying.

(2) **Statement of copying, mailing, or other costs.** The notice of availability will state any costs for obtaining a copy of the records, the costs for having a copy mailed to the requestor, and any other allowable costs under WAC 478-276-100 or the Public Records Act.

(3) **Response to notice of availability.** Upon receipt of a notice of availability, the requestor may inspect the records by either:

(a) Scheduling a viewing appointment with the public records office as provided under WAC 478-276-095;

(b) Requesting that a copy of the requested records be held for pickup at the public records office subject to payment of any copying or other charges as set forth under WAC 478-276-100; or

(c) Requesting that a copy of the requested records be sent to the requestor (subject to payment of any copying or other charges as set forth under WAC 478-276-100).

(4) **Failure to respond to notice of availability.** If within ten business days of issuance of a notice of availability, the requestor fails to claim the records (or any installment thereof) by either scheduling a viewing appointment or requesting copies and making any required payment, the public records office may consider the request closed. In such case, the public records office may cease locating, assembling, reviewing, or otherwise processing any remaining records, and it may dispose of any records made available as provided under WAC 478-276-105.

NEW SECTION

WAC 478-276-095 Viewing appointments. (1) **No fee.** No fee shall be charged for inspecting records at the university's public records office.

(2) **By appointment only.** In-office inspections are by appointment only during regular office hours: Monday through Friday 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., excluding university holidays, university closures, and

such other closures as may be posted on the public records office's web site.

(3) **Scheduling appointments.** In-office inspections must be scheduled in advance by contacting the public records office (see WAC 478-276-140).

(4) **Protection of public records.** Access to records during viewing appointments shall be restricted to the viewing area designated by the public records office. No document shall be physically removed by a member of the public from the viewing area for any reason whatsoever; nor shall any member of the public who is viewing documents disassemble, deface, or cause the disorganization of any record for any reason whatsoever. A public records office staff member may observe any inspection to ensure that records are not disorganized, defaced, or otherwise harmed.

(5) **Identification of records reviewed.** At the end of each viewing appointment, the requestor will identify to the public records office staff those records reviewed during the appointment. If any records remain to be reviewed, another viewing appointment must be scheduled at that time. Reviewed records, or remaining records for which no further viewing appointment has been scheduled, are subject to disposition as provided under WAC 478-276-105.

(6) **Obtaining copies at viewing appointments.** At the end of each viewing appointment, the requestor shall identify to the public records office staff any records he or she would like copied. The public records office staff will arrange to provide such copies in as timely a manner as possible in view of all circumstances, including the volume of copies requested, any pending copying requests, time of day, staff resources, and any other relevant considerations. Records identified for copying during viewing appointments are subject to prepayment of any copying or other costs in accordance with WAC 478-276-100. Requestors may not make their own copies of public records during viewing appointments.

(7) **Failure to attend a scheduled viewing appointment.** A requestor who fails to attend a scheduled viewing appointment must call the public records office within five business days to reschedule the missed appointment. Unless otherwise permitted by the public records office, a viewing appointment may not be rescheduled more than two times. If a requestor fails to reschedule a missed viewing appointment within five business days or has already rescheduled the appointment two times, the public records office may consider the request closed and may dispose of any records or copies made available in accordance with WAC 478-276-105.

AMENDATORY SECTION (Amending WSR 06-17-131, filed 8/22/06, effective 9/22/06)

WAC 478-276-100 ((Inspection of public records—) Copying((—Costs)). ((1) Public records of the University of Washington required to be disclosed by chapter 42.56 RCW, shall be made available for inspection and copying by the public records and open public meetings office staff under the supervision of the director of public records and open public meetings. Arrangements for photocopying of documents in accordance with RCW 42.56.210 shall be made

by the university in such a way as to protect the records from damage or disorganization and to prevent excessive interference with other essential functions of the agency.

(2) No fee shall be charged for the inspection of public records. The university imposes a charge for providing copies of public records whether the copies are on paper or on other media such as, but not limited to, CDs, diskettes, audio or videotape; the university also charges for packaging, postage, and other charges as allowed by statute. Such charges shall not exceed the amount necessary to reimburse the university for actual costs as allowed by law.

(3) No person shall be provided a copy of a public record which has been copied by the university at the request of such person until and unless such person has tendered payment for the charge for providing such copying.) (1) **Copying facilities available.** Facilities shall be made available to requestors for the copying of public records as set forth under WAC 478-276-095, except when and to the extent that this would unreasonably disrupt the operations of the public records office.

(2) **Copying costs.** The university may charge for providing copies of public records. Charges are posted on the office's web site.

(3) **Other costs.** The university may charge for nonpaper media (for example, without limitation, compact disks (CDs), digital versatile disks (DVDs), audiotape, or videotape) used to provide copies, packaging, postage, or other charges as allowed by law. Such charges shall not exceed the amount necessary to reimburse the university for actual costs.

(4) **Deposits.** The university may require a ten percent deposit on copying or other charges. Any required deposit must be paid before the request is processed.

(5) **Prepayment.** The public records office shall not release any requested copies of public records unless and until the requestor has paid all copying and other charges as set forth above. If payment is not received by the public records office within fifteen business days of issuance of the university's notice of availability, the university may consider the request closed, and any records or copies responsive to such request shall be subject to disposition as provided under WAC 478-276-105.

AMENDATORY SECTION (Amending WSR 97-14-004, filed 6/19/97, effective 7/20/97)

WAC 478-276-105 ((Protection of) Closing public records requests. ((Access to any "writing," as defined in WAC 478-276-020(2), shall be restricted to the viewing area designated by the university. No document shall be physically removed by a member of the public from the viewing area for any reason whatsoever. Nor shall any member of the public who is viewing documents disassemble, deface, or cause the disorganization of documents for any reason whatsoever.)) (1) **Closing requests generally.** Once the requestor has reviewed or been provided with copies of the records made available in response to his or her request, that request shall be deemed closed; provided, however, that with respect to any installment of records other than the final installment, and except as otherwise provided in these rules (including, without limitation subsection (2)(c) of this section), the fore-

going shall apply only to that installment, not the entire request.

(2) **Other closing events.** A request may also be deemed closed:

(a) If a requestor does not respond to a request for clarification or otherwise fails to clarify within five business days:

(b) If the requestor fails to make a required deposit or payment for requested copies as provided under WAC 478-276-100:

(c) If the requestor fails to respond to a notice of availability as provided under WAC 478-276-090:

(d) If all records identified in any notice of availability (including a notice with respect to an installment of records) have not been inspected, paid for, or picked up within fifteen business days of issuance of such notice of availability; or

(e) As otherwise provided under these rules or by law.

(3) **Disposition of records upon closing.** Upon the closing of a request, originals of any records assembled in response to the request shall be refiled, and any copies of records may be destroyed.

AMENDATORY SECTION (Amending WSR 06-17-131, filed 8/22/06, effective 9/22/06)

WAC 478-276-110 Exemptions~~(—)~~ and court protection. (1) **Exemptions generally.** The university ~~((of Washington))~~ reserves the right to determine that a public record requested in accordance with ~~((the procedures outlined in))~~ WAC 478-276-080, or any portion thereof, is exempt under the ~~((provisions of chapter 42.56 RCW))~~ Public Records Act.

(2) ~~((In addition, pursuant to chapter 42.56 RCW, the University of Washington reserves the right to delete identifying details when it makes available or publishes any public record in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by RCW 42.56.050.))~~ **Commercial purposes.** The Public Records Act prohibits the university from disclosing lists of individuals requested for commercial purposes.

(3) ~~((Responses by the University of Washington refusing, in whole or in part, inspection of any record))~~ **Identification of exemptions.** Public records office responses denying inspection of any record, in whole or in part, shall include a statement of the specific exemption(s) authorizing the withholding of the record (or ~~((part))~~ portion thereof) and a brief explanation of how the exemption applies to the record or information withheld.

(4) **Enjoining inspection.** Pursuant to ~~((RCW 42.56.540))~~ the Public Records Act, the university ~~((of Washington))~~ reserves the right to seek to enjoin the ~~((examination))~~ inspection of any specific record ~~((, the examination of which))~~ if the university determines that inspection would clearly not be in the public interest and would substantially and irreparably damage any person or would substantially and irreparably damage vital governmental functions.

AMENDATORY SECTION (Amending WSR 01-11-136, filed 5/23/01, effective 6/23/01)

WAC 478-276-120 Review of denials of public records requests. (1) **Petition for review.** A person who has been denied access to public records may submit to the ~~((director of))~~ university's public records ~~((and open public meetings))~~ officer a petition for prompt review of such decision. The written request shall specifically refer to the written statement by the ~~((director of))~~ public records ~~((and open public meetings or))~~ office staff member which constituted or accompanied the denial.

(2) ~~((Immediately))~~ **Response to petition.** After receiving a written request for review of a decision denying a public record, the ~~((director of))~~ public records ~~((and open public meetings or other staff member denying the request shall refer it to the office of the president of the University of Washington))~~ office shall promptly refer it to the hearing officer. The petition shall be reviewed ~~((promptly))~~ and the action of the public records ~~((and open public meetings))~~ office ~~((staff))~~ shall be approved or disapproved. Such approval or disapproval shall constitute final university action for purposes of judicial review.

AMENDATORY SECTION (Amending WSR 06-13-021, filed 6/13/06, effective 7/14/06)

WAC 478-276-140 Public records ~~((and open public meetings office—))~~ address. ~~((All requests for public records to the University of Washington shall be addressed as follows:~~

University of Washington
Public Records and Open Public Meetings Office
4311 11th Ave. N.E.
Suite 360
Seattle, WA 98105

~~((for internal campus mail use: Box 354997). The telephone number of the public records and open public meetings office is 206-543-9180.))~~ The university's public records officer may be contacted at the following physical address, telephone numbers, or e-mail address:

Office of Public Records and Open Public Meetings
University of Washington
4311 11th Ave. N.E., Suite 360
Seattle, WA 98105
Telephone: 206-543-9180
Facsimile: 206-616-6294
E-mail: pubrec@uw.edu

The public records office's web site is at <http://depts.washington.edu/publicrecords>.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 478-276-070 Times for inspection and copying.

WSR 12-21-074
PROPOSED RULES
WASHINGTON STATE LOTTERY

[Filed October 19, 2012, 9:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-18-056.

Title of Rule and Other Identifying Information: Title 315 WAC, the lottery commission has identified technical corrections and updates to WAC 315-10-020. This update will accomplish technical and correctional updates necessary for operational procedures.

Hearing Location(s): Washington's Lottery, 814 4th Avenue, Olympia, WA 98506, on November 27, 2012, at 0900.

Date of Intended Adoption: November 27, 2012.

Submit Written Comments to: Jana Jones, P.O. Box 43000, Olympia, WA 98506, e-mail jjones@walottery.com, fax (360) 586-1039, by November 23, 2012.

Assistance for Persons with Disabilities: Contact Debbie Robinson by November 23, 2012, TTY (360) 586-0933 or (360) 664-4815.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The lottery commission has identified technical corrections and updates to WAC 315-10-020. The lottery wishes to update WAC 315-10-020 to include language to add play symbols to the front and or back of an instant ticket as the lottery deems necessary for creative purposes.

Statutory Authority for Adoption: RCW 67.70.040 (1), (3).

Statute Being Implemented: RCW 67.70.040.

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

Name of Proponent: Washington state lottery commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jana Jones, Washington's Lottery, (360) 664-4833; and Enforcement: Len Brudvik, Washington's Lottery, (360) 664-4742.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The only business allowed by law to sell lottery products are existing licensed lottery retailers.

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

October 19, 2012

Jana L. Jones

Director of Legal Services

AMENDATORY SECTION (Amending WSR 05-11-049, filed 5/13/05, effective 6/13/05)

WAC 315-10-020 Definitions. (1) Ticket. The ticket purchased for participation in an instant game and any ticket used in media promotions and retailer incentive programs authorized by the director for an instant game.

(2) Instant game. A game in which a ticket is purchased and the ticket bearer determines his or her winnings, if any.

(3) Ticket bearer. The person who has signed the ticket or has possession of the unsigned ticket.

(4) Play symbols. The numbers or symbols appearing in the designated areas on the front and or the back of the ticket. Play symbols were formerly called play numbers. Both terms shall have the same meaning.

(5) Your(s). The ticket bearer's play area or areas (for example, "your hand(s)," "your card(s)," or "your roll(s)").

(6) Their(s). The opponent's play area or areas (for example, "their card(s)," or "their roll(s)").

(7) Validation number. The multidigit number found on the ticket and on any ticket stub. There must be a validation number on the ticket or any stub.

(8) Working papers or software requirement specifications. The documents providing production and winning ticket specifications for each instant ticket game.

(9) Scratch game. An instant game in which a ticket is purchased and, upon removal of a scratch-off coating on the front and or the back of the ticket, the ticket bearer determines his or her winning, if any.

WSR 12-21-076
PROPOSED RULES
UNIVERSITY OF WASHINGTON

[Filed October 19, 2012, 10:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-20-075.

Title of Rule and Other Identifying Information: Chapter 478-156 WAC, rules for the University of Washington residence halls and family housing apartments.

Hearing Location(s): Room 142, Gerberding Hall, University of Washington, Seattle Campus, on November 29, 2012, at 1:00 p.m.

Date of Intended Adoption: January 10, 2013.

Submit Written Comments to: Rebecca Goodwin Dearnorff, University of Washington, Rules Coordination Office, Box 351210, Seattle, WA 98195-1210, e-mail rules@uw.edu, fax (206) 685-3825, by November 29, 2012.

Assistance for Persons with Disabilities: Contact disability services office by November 13, 2012, TTY (206) 543-6452 or (206) 543-6450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments to the University of Washington's rules for student housing are proposed to limit the scope of the rules to the Seattle campus, to update the types of housing now offered to students, and to streamline administrative practices.

Reasons Supporting Proposal: In addition to updating these rules according to the types of housing currently offered, these rules will be limited to the UW Seattle campus, allowing other student housing options to be developed for the UW Bothell and UW Tacoma campuses as the need arises.

Statutory Authority for Adoption: RCW 28B.15.031 and 28B.20.130.

Statute Being Implemented: RCW 28B.15.031 and 28B.20.130.

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 Enforcement: Pamela Schreiber, Director of Housing and Food Services, Room 305, Schmitz Hall, UW Seattle Campus, (206) 543-2430; Implementation: Eric Godfrey, Vice-President and Vice-Provost for Student Life, Room 101, Gerberding Hall, UW Seattle Campus, (206) 543-0128.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impose a disproportionate impact on small businesses or affect a school district under Title 28A RCW.

A cost-benefit analysis is not required under RCW 34.05.328. The University of Washington does not consider these to be significant legislative rules.

October 19, 2012

Rebecca Goodwin Dearthoff
Director of Rules Coordination

Chapter 478-156 WAC

RULES FOR THE UNIVERSITY OF WASHINGTON, SEATTLE CAMPUS RESIDENCE HALLS, SINGLE STUDENT AND FAMILY HOUSING APARTMENTS

AMENDATORY SECTION (Amending WSR 97-24-048, filed 11/26/97, effective 12/27/97)

WAC 478-156-010 Legal authority to enact. Pursuant to the authority granted by RCW 28B.20.130 and 28B.15.031, the board of regents of the University of Washington has established the following rules governing the operation of the university's residence halls, single student and family housing apartments for the University of Washington, Seattle campus.

AMENDATORY SECTION (Amending WSR 97-24-048, filed 11/26/97, effective 12/27/97)

WAC 478-156-011 Purpose of residence halls, single student and family housing apartments. The residence halls, single student and family housing apartments exist primarily to provide a conveniently located living environment for university students which will contribute to their educational development.

AMENDATORY SECTION (Amending WSR 97-24-048, filed 11/26/97, effective 12/27/97)

WAC 478-156-013 Priority for residence halls(~~— Eligibility~~) and single student apartments. Priority for use of residence hall space and single student apartments is given to enrolled students at the University of Washington, Seattle.

Priority for use of any remaining housing space is specific to each residence hall or apartment building. Up-to-date information pertaining to residence hall and single student apartment use priority is available on the University of Washington, Seattle housing and food services' web site.

Subject to space availability, the following may be granted residence privileges in the order of their applications after the needs of enrolled students have been fulfilled:

(1) Participants in university-sponsored short courses, conferences, and state tests and examinations.

(2) Visiting scholars sponsored by academic departments.

(3) Students attending nearby community colleges.

(4) On a transient basis, visiting students from other institutions, visiting faculty members and guests of student residents.

(5) Other groups when approved by the committee on the use of university facilities.

(6) Other groups or individuals approved by housing and food services, on a space available basis.

AMENDATORY SECTION (Amending WSR 97-24-048, filed 11/26/97, effective 12/27/97)

WAC 478-156-016 Family housing apartments—Assignment and unit size eligibility. Residents must be enrolled as full-time students at the University of Washington three of the four quarters of an academic year, and be married couples; registered, same-sex domestic partners (that is, the partnerships are registered with the ~~((city of Seattle))~~ state of Washington or other jurisdictions where domestic partner registrations are offered); or single parents with dependent children. In addition, financial eligibility must be verified ~~((annually))~~ prior to move-in for those students in priority groups (1) through (3), which are described in WAC 478-156-017. The office of student financial aid will ~~((annually))~~ update financial need figures for family housing eligibility and will ~~((annually))~~ evaluate the resources of each new applicant ~~((and each current resident of family housing))~~ to determine if their requirements for financial assistance exceed the established need figures. Separate financial need figures are established for each unit size. ~~((The applicable dollar amounts and deadlines for submission of the financial aid form are published by and available at the housing and food services office in January of each year. Eligibility will be for the period July 1 through June 30.))~~ Any expenses related to the processing of the financial aid form will be borne by the applicant or the current resident. ~~((Residents not meeting the eligibility requirements who feel they have mitigating circumstances may appeal to the application appeal and eviction review committee.))~~ Assignment eligibility criteria for each unit size of university-owned housing is specific to the property and outlined on the University of Washington, Seattle housing and food services web site.

Changes to these eligibility criteria shall be approved through the office of the vice-president and vice-provost for student life.

AMENDATORY SECTION (Amending WSR 97-24-048, filed 11/26/97, effective 12/27/97)

WAC 478-156-017 Assignment priority. Applicants for university-owned family housing apartments who are judged eligible for assignment pursuant to WAC 478-156-016 are assigned in the following order of priority, based on the date of application:

- (1) Students who have special housing needs due to:
- ~~Disability-related reasons ((financial eligibility may be waived on a case-by-case basis for students with disabilities));~~
 - ~~Students in the university's educational opportunity program (, and others with extreme financial or personal hardship-~~
- (2));
- Students who are single parents and have dependent children meeting financial eligibility criteria as set forth in WAC 478-156-016; and
 - Others with extreme financial or personal hardship.
- ((3)) (2) Other students meeting financial eligibility criteria as set forth in WAC 478-156-016.
- ((4)) (3) Other students exceeding financial eligibility criteria.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|-----------------|----------------------------------|
| WAC 478-156-015 | Occupancy deadline. |
| WAC 478-156-018 | Unit size—Eligibility standards. |

WSR 12-21-092
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed October 22, 2012, 3:58 p.m.]

The Washington department of fish and wildlife is withdrawing WAC 232-12-011 filed as part of WSR 12-14-115 on July 5, 2012, and WSR 12-19-021 on September 10, 2012. We want to wait until the National Marine Fisheries Service takes action before we proceed with amending this WAC. We understand that there is inadequate time prior to the hearing we scheduled for November 8-9, 2012, to inform the public that we are withdrawing the CR-102 and CR-102 continuance, so we will still allow public testimony on the subject if anyone shows up to testify.

Lori Preuss
 Rules Coordinator

WSR 12-21-093
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed October 22, 2012, 3:51 p.m.]

Original Notice.
 Preproposal statement of inquiry was filed as WSR 12-10-090.

Title of Rule and Other Identifying Information: WAC 388-105-0005 The daily medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside in adult family homes (AFH) and boarding homes contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services.

Hearing Location(s): Office Building 2, Lookout Room, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on November 27, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 28, 2012.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 27, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by November 6, 2012, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 388-105-0005 contains the rate table used to calculate the daily medicaid rate for AFH and AL facilities (formerly called boarding homes) contracted to provide AL, ARC, and EARC. To comply with the budgetary directives put forth by the legislature in ESHB 2127 (2012 supplementary budget), changes need to be made to WAC 388-105-0005 including: AFH will have their rates adjusted to include adjusted funding for training costs and a vendor rate increase corresponding to a higher license fee. AL facilities (formerly called boarding homes) contracted to provide AL, ARC, and EARC will have their rates adjusted to include adjusted funding for training costs and a two percent reduction in rates.

AFH and AL facilities (formerly called boarding homes) contracted to provide AL, ARC, and EARC will be affected by this rule change. The proposed rule change will update the dollar amounts in the table. Additionally, it will update the language from "boarding homes" to "assisted living facilities" per SHB 2056.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.39A.030 (3)(a).

Statute Being Implemented: ESHB 2127 and SHB 2056.

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: Elizabeth Pashley, 4450 10th Avenue S.E., Lacey, WA 98503, (360) 725-2447; Implementation and Enforcement: Ken Callaghan, 4450 10th Avenue S.E., Lacey, WA 98503, (360) 725-2499.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule change is adjusting rates pursuant to legislative standards. Exemption: RCW 34.05.310 (4)(f).

A cost-benefit analysis is not required under RCW 34.05.328. The rule change is adjusting rates pursuant to legislative standards. RCW 34.05.328 (5)(b)(vi).

October 18, 2012
 Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-02-050, filed 12/30/11, effective 1/30/12)

WAC 388-105-0005 The daily medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside in adult family homes (AFH) and (~~boarding homes~~) assisted living facilities contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services. For contracted AFH and (~~boarding homes~~) assisted living facilities contracted to provide AL, ARC, and EARC services, the department pays the following daily rates for care of a medicaid resident:

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
KING COUNTY					
CARE CLASSIFICATION	AL Without Capital Add-on	AL With Capital Add-on	ARC	EARC	AFH
A Low	\$((66.52)) <u>65.58</u>	\$((71.94)) <u>71.00</u>	\$((47.06)) <u>46.51</u>	\$((47.06)) <u>46.51</u>	\$((46.61)) <u>47.45</u>
A Med	\$((72.02)) <u>70.97</u>	\$((77.44)) <u>76.39</u>	\$((53.39)) <u>52.71</u>	\$((53.39)) <u>52.71</u>	\$((52.86)) <u>53.70</u>
A High	\$((80.81)) <u>79.58</u>	\$((86.23)) <u>85.00</u>	\$((58.63)) <u>57.85</u>	\$((58.63)) <u>57.85</u>	\$((59.12)) <u>59.96</u>
B Low	\$((66.52)) <u>65.58</u>	\$((71.94)) <u>71.00</u>	\$((47.06)) <u>46.51</u>	\$((47.06)) <u>46.51</u>	\$((46.84)) <u>47.68</u>
B Med	\$((74.22)) <u>73.13</u>	\$((79.64)) <u>78.55</u>	\$((59.72)) <u>58.92</u>	\$((59.72)) <u>58.92</u>	\$((59.41)) <u>60.25</u>
B Med-High	\$((84.05)) <u>82.76</u>	\$((89.47)) <u>88.18</u>	\$((63.50)) <u>62.62</u>	\$((63.50)) <u>62.62</u>	\$((63.64)) <u>64.48</u>
B High	\$((88.48)) <u>87.10</u>	\$((93.90)) <u>92.52</u>	\$((72.58)) <u>71.52</u>	\$((72.58)) <u>71.52</u>	\$((72.73)) <u>73.57</u>
C Low	\$((72.02)) <u>70.97</u>	\$((77.44)) <u>76.39</u>	\$((53.39)) <u>52.71</u>	\$((53.39)) <u>52.71</u>	\$((52.86)) <u>53.70</u>
C Med	\$((80.81)) <u>79.58</u>	\$((86.23)) <u>85.00</u>	\$((67.00)) <u>66.05</u>	\$((67.00)) <u>66.05</u>	\$((67.44)) <u>68.28</u>
C Med-High	\$((100.58)) <u>98.96</u>	\$((106.00)) <u>104.38</u>	\$((89.29)) <u>87.89</u>	\$((89.29)) <u>87.89</u>	\$((88.28)) <u>89.12</u>
C High	\$((101.58)) <u>99.94</u>	\$((107.00)) <u>105.36</u>	\$((90.14)) <u>88.73</u>	\$((90.14)) <u>88.73</u>	\$((89.51)) <u>90.35</u>
D Low	\$((74.22)) <u>73.13</u>	\$((79.64)) <u>78.55</u>	\$((72.14)) <u>71.09</u>	\$((72.14)) <u>71.09</u>	\$((68.74)) <u>69.58</u>
D Med	\$((82.46)) <u>81.20</u>	\$((87.88)) <u>86.62</u>	\$((83.57)) <u>82.29</u>	\$((83.57)) <u>82.29</u>	\$((84.09)) <u>84.93</u>
D Med-High	\$((106.61)) <u>104.87</u>	\$((112.03)) <u>110.29</u>	\$((106.26)) <u>104.52</u>	\$((106.26)) <u>104.52</u>	\$((101.14)) <u>101.98</u>
D High	\$((114.88)) <u>112.97</u>	\$((120.30)) <u>118.39</u>	\$((114.88)) <u>112.97</u>	\$((114.88)) <u>112.97</u>	\$((115.12)) <u>115.96</u>

CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
E Med	\$((138.82)) <u>136.43</u>	\$((144.24)) <u>141.85</u>	\$((138.82)) <u>136.43</u>	\$((138.82)) <u>136.43</u>	\$((139.06)) <u>139.90</u>
E High	\$((162.76)) <u>159.89</u>	\$((168.18)) <u>165.31</u>	\$((162.76)) <u>159.89</u>	\$((162.76)) <u>159.89</u>	\$((163.01)) <u>163.85</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE
METROPOLITAN COUNTIES*

CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low	\$((61.02)) <u>60.19</u>	\$((65.94)) <u>65.11</u>	\$((47.06)) <u>46.51</u>	\$((47.06)) <u>46.51</u>	\$((46.61)) <u>47.45</u>
A Med	\$((64.33)) <u>63.43</u>	\$((69.25)) <u>68.35</u>	\$((51.28)) <u>50.64</u>	\$((51.28)) <u>50.64</u>	\$((50.77)) <u>51.61</u>
A High	\$((78.61)) <u>77.43</u>	\$((83.53)) <u>82.35</u>	\$((55.91)) <u>55.18</u>	\$((55.91)) <u>55.18</u>	\$((55.98)) <u>56.82</u>
B Low	\$((61.02)) <u>60.19</u>	\$((65.94)) <u>65.11</u>	\$((47.06)) <u>46.51</u>	\$((47.06)) <u>46.51</u>	\$((46.84)) <u>47.68</u>
B Med	\$((69.81)) <u>68.80</u>	\$((74.73)) <u>73.72</u>	\$((56.56)) <u>55.82</u>	\$((56.56)) <u>55.82</u>	\$((56.26)) <u>57.10</u>
B Med-High	\$((79.07)) <u>77.88</u>	\$((83.99)) <u>82.80</u>	\$((60.14)) <u>59.33</u>	\$((60.14)) <u>59.33</u>	\$((60.32)) <u>61.16</u>
B High	\$((86.29)) <u>84.95</u>	\$((91.21)) <u>89.87</u>	\$((70.53)) <u>69.51</u>	\$((70.53)) <u>69.51</u>	\$((70.68)) <u>71.52</u>
C Low	\$((64.33)) <u>63.43</u>	\$((69.25)) <u>68.35</u>	\$((51.49)) <u>50.85</u>	\$((51.49)) <u>50.85</u>	\$((51.15)) <u>51.99</u>
C Med	\$((78.61)) <u>77.43</u>	\$((83.53)) <u>82.35</u>	\$((66.14)) <u>65.21</u>	\$((66.14)) <u>65.21</u>	\$((65.80)) <u>66.64</u>
C Med-High	\$((97.27)) <u>95.71</u>	\$((102.19)) <u>100.63</u>	\$((82.96)) <u>81.69</u>	\$((82.96)) <u>81.69</u>	\$((82.04)) <u>82.88</u>
C High	\$((98.24)) <u>96.67</u>	\$((103.16)) <u>101.59</u>	\$((88.24)) <u>86.87</u>	\$((88.24)) <u>86.87</u>	\$((87.03)) <u>87.87</u>
D Low	\$((69.81)) <u>68.80</u>	\$((74.73)) <u>73.72</u>	\$((71.15)) <u>70.12</u>	\$((71.15)) <u>70.12</u>	\$((67.23)) <u>68.07</u>
D Med	\$((80.21)) <u>79.00</u>	\$((85.13)) <u>83.92</u>	\$((81.90)) <u>80.65</u>	\$((81.90)) <u>80.65</u>	\$((81.83)) <u>82.67</u>
D Med-High	\$((103.11)) <u>101.44</u>	\$((108.03)) <u>106.36</u>	\$((103.63)) <u>101.95</u>	\$((103.63)) <u>101.95</u>	\$((98.06)) <u>98.90</u>
D High	\$((111.72)) <u>109.88</u>	\$((116.64)) <u>114.80</u>	\$((111.72)) <u>109.88</u>	\$((111.72)) <u>109.88</u>	\$((111.38)) <u>112.22</u>
E Med	\$((134.51)) <u>132.21</u>	\$((139.43)) <u>137.13</u>	\$((134.51)) <u>132.21</u>	\$((134.51)) <u>132.21</u>	\$((134.17)) <u>135.01</u>
E High	\$((157.30)) <u>154.54</u>	\$((162.22)) <u>159.46</u>	\$((157.30)) <u>154.54</u>	\$((157.30)) <u>154.54</u>	\$((156.96)) <u>157.80</u>

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE
NONMETROPOLITAN COUNTIES**

CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low	\$((59.94)) <u>59.13</u>	\$((65.18)) <u>64.37</u>	\$((47.06)) <u>46.51</u>	\$((47.06)) <u>46.51</u>	\$((46.61)) <u>47.45</u>
A Med	\$((64.33)) <u>63.43</u>	\$((69.57)) <u>68.67</u>	\$((50.23)) <u>49.62</u>	\$((50.23)) <u>49.62</u>	\$((49.74)) <u>50.58</u>
A High	\$((78.61)) <u>77.43</u>	\$((83.85)) <u>82.67</u>	\$((55.04)) <u>54.30</u>	\$((55.04)) <u>54.30</u>	\$((54.95)) <u>55.79</u>
B Low	\$((59.94)) <u>59.13</u>	\$((65.18)) <u>64.37</u>	\$((47.06)) <u>46.51</u>	\$((47.06)) <u>46.51</u>	\$((46.84)) <u>47.68</u>
B Med	\$((69.81)) <u>68.80</u>	\$((75.05)) <u>74.04</u>	\$((55.54)) <u>54.79</u>	\$((55.54)) <u>54.79</u>	\$((55.22)) <u>56.06</u>
B Med-High	\$((79.07)) <u>77.88</u>	\$((84.31)) <u>83.12</u>	\$((59.01)) <u>58.22</u>	\$((59.01)) <u>58.22</u>	\$((59.14)) <u>59.98</u>
B High	\$((86.29)) <u>84.95</u>	\$((91.53)) <u>90.19</u>	\$((66.71)) <u>65.77</u>	\$((66.71)) <u>65.77</u>	\$((66.86)) <u>67.70</u>
C Low	\$((64.33)) <u>63.43</u>	\$((69.57)) <u>68.67</u>	\$((50.23)) <u>49.62</u>	\$((50.23)) <u>49.62</u>	\$((49.74)) <u>50.58</u>
C Med	\$((78.61)) <u>77.43</u>	\$((83.85)) <u>82.67</u>	\$((62.52)) <u>61.66</u>	\$((62.52)) <u>61.66</u>	\$((63.29)) <u>64.13</u>
C Med-High	\$((97.27)) <u>95.71</u>	\$((102.51)) <u>100.95</u>	\$((79.79)) <u>78.58</u>	\$((79.79)) <u>78.58</u>	\$((78.92)) <u>79.76</u>
C High	\$((98.24)) <u>96.67</u>	\$((103.48)) <u>101.91</u>	\$((83.41)) <u>82.13</u>	\$((83.41)) <u>82.13</u>	\$((82.32)) <u>83.16</u>
D Low	\$((69.81)) <u>68.80</u>	\$((75.05)) <u>74.04</u>	\$((67.26)) <u>66.30</u>	\$((67.26)) <u>66.30</u>	\$((63.59)) <u>64.43</u>
D Med	\$((80.21)) <u>79.00</u>	\$((85.45)) <u>84.24</u>	\$((77.42)) <u>76.26</u>	\$((77.42)) <u>76.26</u>	\$((77.39)) <u>78.23</u>
D Med-High	\$((103.11)) <u>101.44</u>	\$((108.35)) <u>106.68</u>	\$((97.95)) <u>96.38</u>	\$((97.95)) <u>96.38</u>	\$((92.74)) <u>93.58</u>
D High	\$((105.60)) <u>103.88</u>	\$((110.84)) <u>109.12</u>	\$((105.60)) <u>103.88</u>	\$((105.60)) <u>103.88</u>	\$((105.32)) <u>106.16</u>
E Med	\$((127.14)) <u>124.99</u>	\$((132.38)) <u>130.23</u>	\$((127.14)) <u>124.99</u>	\$((127.14)) <u>124.99</u>	\$((126.86)) <u>127.70</u>
E High	\$((148.68)) <u>146.10</u>	\$((153.92)) <u>151.34</u>	\$((148.68)) <u>146.10</u>	\$((148.68)) <u>146.10</u>	\$((148.41)) <u>149.25</u>

** Nonmetropolitan counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Orielle, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla and Whitman.

WSR 12-21-094
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed October 22, 2012, 3:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-17-136.

Title of Rule and Other Identifying Information: The community services division is proposing to amend WAC 388-310-0800 WorkFirst—Support services, to:

- Remove individual dollar limits for each support service type while still keeping the \$3000.00 per person annual limit in place.
- Remove "public transportation" reference from the mileage support service type as "public transportation" is a separate support service type.
- Clarify that the "mileage" type is a "reimbursement."

Hearing Location(s): Office Building 2, Lookout Room, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/tpau/RPAU-OB-2directions.html>), on November 27, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 28, 2012.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 27, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by November 6, 2012, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments will remove the support service types dollar limits while still keeping the \$3000.00 per person annual limit in place, and better clarify the transportation service categories for WorkFirst participants.

Reasons Supporting Proposal: The proposed amendments are necessary to increase the flexibility of the support service benefits to better meet WorkFirst participants' needs and better facilitate participation in WorkFirst activities.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.08.090.

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, Implementation and Enforcement: Kerry Judge-Kemp, 712 Pear Street S.E., Olympia, 98501, (360) 725-4630.

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. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii): "[t]his section does not apply to rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

October 18, 2012
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-22-061, filed 10/29/10, effective 12/1/10)

WAC 388-310-0800 WorkFirst—Support services.
(1) Who can get support services?

People who can get support services include:

(a) WorkFirst participants who receive a TANF cash grant;

(b) Sanctioned WorkFirst participants during the required participation before the sanction is lifted or applicants who were terminated while in noncompliance sanction who are doing activities required to reopen cash assistance (WAC 388-310-1600);

(c) Unmarried or pregnant minors who are income eligible to receive TANF and are:

(i) Living in a department approved living arrangement (WAC 388-486-0005) and are meeting the school requirements (WAC 388-486-0010); or

(ii) Are actively working with a social worker and need support services to remove the barriers that are preventing them from living in a department approved living arrangement and/or meeting the school requirements.

(d) American Indians who receive a TANF cash grant and have identified specific needs due to location or employment.

(2) Why do I receive support services?

Although not an entitlement, you may receive support services for the following reasons:

(a) To help you participate in work and WorkFirst activities that lead to independence.

(b) To help you to participate in job search, accept a job, keep working, advance in your job, and/or increase your wages.

(c) You can also get help in paying your child care expenses through the working connections child care assistance program. (Chapter 170-290 WAC describes the rules for this child care assistance program.)

(3) What type of support services may I receive and what limits apply?

There is a limit of three thousand dollars per person per program year (July 1st to June 30th) for WorkFirst support services you may receive. (~~(Most)~~) Some types of support services have dollar (~~(Limits)~~) limit restrictions.

The chart below shows the types of support services that are available for the different activities (as indicated by an "x") and the (~~(Limits)~~) restrictions that apply.

Definitions:

- Work-related activities include looking for work or participating in workplace activities, such as community jobs or a work experience position.

•• Safety-related activities include meeting significant or emergency family safety needs, such as dealing with family violence. ~~((When approved, safety-related support services can exceed the dollar or category limits listed below.))~~

••• Some support services are available if you need them for other required activities in your IRP.

Type of support service	((Limit)) <u>Restrictions</u>	• Work	•• Safety	••• Other
Reasonable accommodation for employment	(((\$1,000 for each request))	x		
Clothing/uniforms	(((\$75 per adult per program year))	x		
Diapers	(((\$50 per child per month))	x		
Haircut	(((\$40 per each request))	x		
Lunch	Same rate as established by OFM for state employees	x		
Personal hygiene	(((\$50 per adult per program year))	x		
Professional, trade, association, union and bonds	(((\$300 for each fee))	x		
Relocation related to employment (can include rent, housing, and deposits)	(((\$1,000 per program year))	x		
Short-term lodging and meals in connection with job interviews/tests	Same rate as established by OFM for state employees	x		
Tools/equipment	(((\$500 per program year))	x		
Car repair needed to restore car to operable condition	(((\$250 per program year))	x	x	
License/fees	(((\$130 per program year))	x	x	
Mileage ((, transportation, and/or public transportation)) reimbursement	Same rate as established by OFM for state employees	x	x	
Transportation allotment	((Up to: \$25 for immediate need, or \$40 twice a month if you live within 40 miles of your local WorkFirst office, or \$60 twice a month if you live more than 40 miles from your local WorkFirst office.))	x	x	
Counseling	((No limit))	x	x	x
Educational expenses	(((\$300 for each request if it is an approved activity in your IRP and you do not qualify for sufficient student financial aid to meet the cost))	x		x
Medical exams (not covered by medicaid)	(((\$150 per exam))	x	x	x
Public transportation	(((\$150 per month))	x	x	x
Testing-diagnostic	(((\$200 each))	x	x	x

(4) What are the other requirements to receive support services?

Other restrictions on receiving support services are determined by the department or its agents. They will consider whether:

- (a) It is within available funds; and
- (b) It does not assist, promote, or deter religious activity; and

(c) There is no other way to meet the cost.

(5) What happens to my support services if I do not participate as required?

The department will give you ten days notice, following the rules in WAC 388-310-1600, then discontinue your support services until you participate as required.

WSR 12-21-095
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 (Community Services Division)
 [Filed October 22, 2012, 3:55 p.m.]

Original Notice.
 Preproposal statement of inquiry was filed as WSR 12-13-078.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-478-0015 Need standards for cash assistance.

Hearing Location(s): Office Building 2, Lookout Room, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on November 27, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 28, 2012.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 27, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by November 6, 2012, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The community services division is proposing to amend WAC 388-478-0015 in order to revise the basic need standards for cash assistance programs.

Reasons Supporting Proposal: DSHS is required by RCW 74.04.770 to establish standards of need for cash assistance programs on an annual basis.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.770, and 74.08.090.

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, Implementation and Enforcement: Aurea Figueroa-Rogers, P.O. Box 45440, Olympia, WA 98504, (360) 725-4623.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by revising the need standards for cash assistance.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." This rule affects the need standards for cash assistance as outlined in WAC 388-478-0015.

October 18, 2012
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-24-021, filed 11/30/11, effective 1/1/12)

WAC 388-478-0015 Need standards for cash assistance. The need standards for cash assistance units are:

(1) For assistance units with obligation to pay shelter costs:

Assistance Unit Size	Need Standard
1	\$(1,154) <u>1,192</u>
2	((1,460)) <u>1,508</u>
3	((1,803)) <u>1,862</u>
4	((2,128)) <u>2,197</u>
5	((2,452)) <u>2,532</u>
6	((2,777)) <u>2,867</u>
7	((3,209)) <u>3,314</u>
8	((3,552)) <u>3,668</u>
9	((3,894)) <u>4,022</u>
10 or more	((4,237)) <u>4,376</u>

(2) For assistance units with shelter provided at no cost:

Assistance Unit Size	Need Standard
1	\$(607) <u>621</u>
2	((768)) <u>786</u>
3	((948)) <u>970</u>
4	((1,119)) <u>1,145</u>
5	((1,290)) <u>1,319</u>
6	((1,460)) <u>1,494</u>
7	((1,688)) <u>1,727</u>
8	((1,868)) <u>1,911</u>
9	((2,048)) <u>2,095</u>
10 or more	((2,228)) <u>2,280</u>

WSR 12-21-102
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed October 23, 2012, 10:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-07-069.

Title of Rule and Other Identifying Information: Independent medical exams (IMEs), WAC 296-23-302 Definitions, 296-23-317 What qualifications must a provider meet to become an approved independent medical examination (IME) provider and be assigned a provider number?, and 296-23-337 For what reasons shall the department's medical director or designee suspend or terminate approval of an IME examiner or firm?

Hearing Location(s): Tukwila Service Location, 12806 Gateway Drive, Tukwila, WA 98168-1050, on November 28, 2012, at 1:00 p.m.; and at the Tumwater Headquarters Building, Room S119, 7273 Linderson Way S.W., Tumwater, WA 98501, on November 29, 2012, at 9:00 a.m.

Date of Intended Adoption: January 22, 2013.

Submit Written Comments to: Kristen Baldwin-Boe, P.O. Box 44322, Olympia, WA 98504-4322, e-mail Kristen.Baldwin-Boe@lni.wa.gov, fax (360) 902-4249, by 5:00 p.m. on December 4, 2012.

Assistance for Persons with Disabilities: Contact Kristen Baldwin-Boe by November 16, 2012, at (360) 902-6815.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department has already adopted new rules to implement provisions of SSB 5801 (chapter 6, Laws of 2011) that create minimum standards for treating providers in our medical provider network. Without amending the IME WACs, the standards for IME examiners will be inconsistent and below the standards for treating physicians.

IMEs are ordered by the department, and workers are required to attend or face sanctions for noncooperation. High quality IMEs are very important for effectively managing workers' compensation claims and ensuring appropriate medical decisions.

The purpose of the proposed rules is to ensure that medical providers who become independent medical examiners know and meet the department's requirements. In the proposed rules, the existing requirements were clarified to ensure consistency, and additional requirements were added.

Reasons Supporting Proposal: These rules support the department's continuing efforts to improve quality of the process and the IME examination and report, which ultimately affect the resolution of workers' compensation claims.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030, 51.32.055, 51.32.110, 51.32.112, 51.32.114, 51.36.060, 51.36.070.

Statute Being Implemented: RCW 51.32.110, 51.32.112, 51.32.114, 51.36.070.

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: Kristen Baldwin-Boe, Tumwater, Washington, (360) 902-6815; Implementation and Enforcement: Janet Peterson, Tumwater, Washington, (360) 902-6699.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department did not prepare a small business economic impact statement because it determined that the proposed rules will not have a disproportionate impact on small businesses.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kristen Baldwin-Boe, P.O. Box 44322, Olympia, WA 98504-4322, phone (360) 902-6815, fax (360) 902-4249, e-mail Kristen.Baldwin-Boe@Lni.wa.gov.

October 23, 2012

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 09-24-085, filed 11/30/09, effective 3/1/10)

WAC 296-23-302 Definitions. Approved independent medical examination (IME) provider - A licensed doctor or firm whose credentials are approved to conduct an independent medical examination, rating evaluation, or provide IME associated services including but not limited to file preparation, scheduling of examinations and processing billing. An

approved IME provider is assigned a unique provider number.

Department - For the purpose of this section, department means the department of labor and industries industrial insurance workers' compensation state fund and self-insured programs.

Direct patient care - For the purpose of meeting the qualifications of an independent medical examination (IME) provider, direct patient care means face-to-face contact with the patient for the purpose of evaluation and management of care that includes, but is not limited to:

- History taking and review of systems;
- Physical examination;
- Medical decision making;
- Coordination of care with other providers and agencies.

This does not include time spent in independent medical examinations.

Impairment rating examination - An examination to determine whether or not the injured/ill worker has any permanent impairment(s) as a result of the industrial injury or illness after the worker has reached maximum medical improvement. An impairment rating may be conducted by a qualified attending provider, a medical consultant, or an approved examiner. An impairment rating may be a component of an IME.

Independent medical examination (IME) - An objective medical-legal examination requested (by the department or self-insurer) to establish medical (~~(facts)~~) findings, opinions, and conclusions about a worker's physical condition. These examinations may only be conducted by department-approved examiners.

Independent medical examination (IME) provider - A firm, partnership, corporation, or individual licensed doctor (examiner) who has been approved and given an independent medical examination (IME) provider number by the department to perform IMEs.

Medical director - A licensed doctor and approved IME examiner in the firm, partnership, corporation or other legal entity responsible to provide oversight on quality of independent medical examinations, impairment ratings and reports.

Medical Examiners' Handbook - A handbook (~~(distributed)~~) developed by the department containing department policy and information to assist providers who perform independent medical examinations and impairment rating examinations.

Patient related services - Patient related services are defined as one or more of the following professional activities:

- Direct patient care;
- Locum tenens;
- Clinical consultations for treating/attending doctors;
- Clinical (~~(or classroom)~~) instruction of medical, osteopathic, dental, podiatry, or chiropractic students and/or residents;
- On-call emergency services;
- Volunteer clinician providing direct patient care services in his or her specialty(~~(;~~
- ~~Participation in clinically based peer review or quality review activities).~~

Provider number - A unique number(s) assigned to a provider by the department of labor and industries. The number identifies the provider and is linked to a tax identification number that has been designated by the provider for payment purposes. A provider may have more than one provider number assigned by the department.

Suspension - A department action during which the provider is approved by the department but not available to accept referrals.

Temporarily unavailable - Provider is approved by the department but is temporarily unavailable to accept referrals. Temporarily unavailable applies at the provider's request for personal reasons or by the department as part of an administrative action. Provider remains unavailable until the issue is resolved.

Termination - The permanent removal of a provider from the list of approved IME examiners. All IME provider numbers assigned to the examiner are inactivated.

AMENDATORY SECTION (Amending WSR 11-01-069, filed 12/10/10, effective 1/10/11)

WAC 296-23-317 What qualifications must a provider meet to become an approved independent medical examination (IME) provider and be assigned an IME provider number? To ensure that independent medical examinations are of the highest quality and propriety, examiners and firms (partnerships, corporations, or other legal entities) that derive income from independent medical exams must apply and meet the following requirements for department approval:

(1) Examiners must:

(a) ~~((Have a current, unrestricted, and active professional license to practice in this state))~~ Submit an accurate and complete IME provider application, including any required supporting documentation and sign without modification, an IME provider agreement with the department.

(b) Be currently licensed, certified, accredited or registered according to Washington state laws and rules or in any other jurisdiction where the applicant would conduct an examination.

(i) ~~((Unrestricted is defined as not currently having a temporary or permanent probation, suspension, revocation or any other limitation of any kind placed on a professional license or privilege to practice by any court, board, or administrative agency in any jurisdiction.))~~ The license, registration or certification must be free of any restrictions, limitations, or conditions relating to the provider's acts, omissions, or conduct.

(ii) The applicant must not have surrendered, voluntarily or involuntarily his or her professional state license or Drug Enforcement Administration (DEA) registration in any state while under investigation or due to findings resulting from the provider's acts, omissions, or conduct. The department may grant an exception for any restriction, limitation, or condition deemed by the department to be minor or clerical in nature or for a case where the restriction, limitation, or condition has been removed.

(iii) If any restriction once existed against the applicant's license, registration, or certification, the department must

automatically deny the application if the applicant's record has not been clear for at least five years. If after five years the record has been cleared, then the department exclusively reserves the right to grant or deny the application based on the nature of the prior restriction.

~~((iii))~~ (iv) Exception to the five-year limit may be granted for any restriction or offense deemed by the department to be of a minor or clerical nature.

~~((iv))~~ (c) Not have had clinical admitting and management privileges denied, limited, or terminated for quality of care issues.

(i) If an applicant has any pending action on their privilege to practice by any court, board, or administrative agency, or by any health care institution such as a hospital in any jurisdiction, the department exclusively reserves the right to grant or deny the application based upon the nature of the action.

~~((b))~~ Have no final action by the department to suspend or revoke a previously assigned provider number as a treating provider or independent medical examiner.

(ii) If an applicant has any criminal history, history of a violation of statutes or rules by any administrative agency, court or board in any jurisdiction, the department must automatically deny the application if such history exists within five years of the application. If such history exists but is older than five years, then the department exclusively reserves the right to grant or deny the application based upon the nature of the history.

~~((ii))~~ (iii) Exception to the five-year limit may be granted for any restriction or offense deemed by the department to be of a minor or clerical nature.

~~((e))~~ (d) Have no final action by the department to suspend or revoke a previously assigned provider number as a treating provider or independent medical examiner.

(e) Have no pending civil or administrative action in any jurisdiction that affects the ability or fitness to practice medicine. The department will not process the application until the matter has been resolved.

~~((d))~~ (f) Have not been excluded, expelled, terminated, or suspended from any federally or state funded health care programs including, but not limited to, medicare or medicaid programs based on cause or quality of care issues.

(g) Have no significant malpractice claims or professional liability claims (based on severity, recency, frequency, or repetition).

(h) Have not been denied approval, or removed, from the provider network as defined in WAC 296-20-01010.

(i) Attest that all information submitted on the application or credentialing materials is true and accurate and must sign under penalty of perjury.

~~((e))~~ (j) Comply with all federal, state, and local laws, regulations, and other requirements with regard to business operations, including specific requirements for the provision of medical services.

~~((f))~~ (k) Adhere to the independent medical examination standards of conduct, and all other laws, rules, and policies. These include but are not limited to the following:

- IME provider application agreement;
- Medical Aid Rules and Fee Schedules (MARFS);
- Payment policies;

• *Medical Examiners' Handbook.*

~~((g))~~ (l) Review and sign the IME report and attest to its accuracy.

~~((h))~~ (m) Conduct examinations in a facility ~~((designed))~~ primarily designated as a professional office ~~((suitable))~~ for medical, dental, podiatric, chiropractic or psychiatric examinations where the primary use of the ~~((site))~~ facility is for medical services. The ~~((site))~~ facility must not be residential, commercial, educational or retail in nature. The ~~((site))~~ facility must be clean, sanitary and provide adequate access, climate control, light, space, and equipment. The ~~((site))~~ facility must provide for the comfort and safety of the worker and for the privacy necessary to conduct examinations and discuss medical issues. Providers must have a private disrobing area and adequate provision of examination gowns if disrobing is required.

~~((i))~~ (n) Have telephone answering capability during regular business hours, Monday through Friday, in order to facilitate scheduling of independent examinations and means for workers to contact the provider regarding their scheduled examination. If the office is open on Saturday, telephone access must be available.

~~((j))~~ (o) Agree that either they or the department may inactivate their IME provider number or numbers. If an IME provider number has been inactivated and the examiner wishes to resume performing IMEs, they must reapply and meet current requirements.

~~((k))~~ (p) Agree to keep the department informed and updated with any new information regarding changes or actions that may affect their status as an IME examiner.

~~((l))~~ (q) Reapply every three years in order to maintain an active IME provider number.

(i) In the first year of the new rule, effective March 1, ~~((2010))~~ 2013, all current examiners must reapply.

(ii) Examiners may have until March 1, 2014, to comply with the new continuing education (CE) documentation requirement.

~~((m))~~ (iii) Examiners will be notified by mail sixty days prior to their renewal application due date.

~~((n))~~ (r) Achieve a passing score on the *Medical Examiners' Handbook* test prior to initial application and ~~((every three years thereafter))~~ when renewal is due or required.

(2) Requirements for specific examiner specialties:

(a) Medical physician and surgeon (MD) or osteopathic physician and surgeon (DO) applicants must: Hold a current board certification in their specialty; or have completed a residency and become board certified within five years of completing the residency.

(i) Residency must be in a program approved by the American College of Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA) or equivalent approving body.

(ii) Fellowships will not be accepted in lieu of accredited residency training though they may be used to determine examination specialty qualifications.

(b) Podiatric physician (DPM) applicants must: Have a current board certification in their specialty or have completed a residency and become board certified within five years of completing the residency.

(i) Complete a residency program approved by the American Podiatric Medical Association (APMA).

(ii) Fellowships will not be accepted in lieu of accredited residency training though they may be used to determine examination specialty qualifications.

(c) Chiropractic physician (DC) applicants must be a chiropractic consultant for the department for at least two years and attend the department's chiropractic IME seminar in the twenty-four months before initial application.

(d) Dentist (doctor of dental science/doctor of dental medicine) (DDS/DMD) applicants must have at least two years of clinical experience after licensure, and:

(i) Hold current certification in their specialty; or

(ii) Have one year of postdoctoral training in a program approved by the American Dental Association Commission on Dental Accreditation (CODA); or

(iii) Be a general dentist.

(3) All examiners must meet ~~((one of the following two criteria:~~

~~(a) Document a minimum of three hundred eighty-four hours of patient related services (excluding independent medical examinations) per calendar year; or~~

~~(b) Complete a minimum of twelve continuing medical education (CME) units of department approved education and training per year or a total of thirty six CMEs in three years.)~~ the continuing education (CE) requirement for their respective state licensure. Washington state CE requirements are shown in the table below.

	Doctors licensed to practice:				
	<u>Medicine & surgery</u>	<u>Osteopathic medicine & surgery</u>	<u>Podiatric medicine & surgery</u>	<u>Chiropractic</u>	<u>Dentistry</u>
<u>Required continuing education hours:</u>	<u>50 hours per year or 200 hours in 4 years</u>	<u>50 hours per year or 150 hours in 3 years</u>	<u>25 hours per year or 50 hours every 2 years</u>	<u>25 hours per year</u>	<u>21 hours per year</u>

Applicants must submit documentation of CE hours with their initial application and when renewal is due or required. This training ~~((would))~~ must focus on ~~((improving the provider's skills in completing IMEs or staying current in the))~~ subject areas relevant to the provider's specialty or skills

required to complete IMEs. ~~((Topics include, but are not limited to:~~

- ~~• Report writing;~~
- ~~• Providing testimony;~~
- ~~• Standards of practice;~~
- ~~• Medical ethics;~~

- Patient care;
- Impairment rating.)

Exception: The requirement to submit CE documentation will be waived for applicants who provide documentation of a minimum of seven hundred sixty-eight hours of

patient related services (excluding independent medical examinations) per calendar year.

Only examiners in the following practice specialties who meet all other requirements may perform IMEs:

Examiner is:	Doctors licensed to practice:				
	Medicine & surgery	Osteopathic medicine & surgery	Podiatric medicine & surgery	Chiropractic	Dentistry
In Washington	Yes	Yes	Yes	Yes	Yes
Outside Washington	Yes	Yes	Yes	No	Yes

(4) IME firms (partnerships, corporations or other legal entities) that derive income from independent medical examinations must:

(a) Have a medical director. The medical director must be a licensed medical physician and surgeon (MD) or ~~((an))~~ osteopathic physician and surgeon (DO), be responsible to provide oversight on the quality of independent medical examinations, impairment ratings and reports, and be available to resolve any issue that department staff may bring to the medical director's attention.

(i) IME firms conducting exams in Washington state must have a medical director who resides in Washington state and has a Washington state medical license.

(ii) The medical director must be an approved independent medical examiner.

(b) Have no previous business or audit action by the department to suspend or revoke an assigned provider number.

(c) Have no previous action taken by any federal or state agency for any business previously owned or operated.

(d) Facilitate scheduling of providers both for the examination and for any required follow up, including amendments to the report, subsequent reports, or for any testimony required. If the provider fails to participate in scheduling or otherwise causes an undue expense to the department, whether intentionally or not, the department may fine the provider up to five hundred dollars per violation.

(e) Attest that all information submitted on the application is true and accurate and must sign under penalty of perjury.

(f) Comply with all federal, state, and local laws, regulations, and other requirements with regard to business operations including specific requirements for any business operations for the provision of medical services.

(g) Adhere to the independent medical examination standards of conduct, and all other laws, rules, and policies. These include, but are not limited to, the following:

- IME provider application agreement;
- Medical Aid Rules and Fee Schedules (MARFS);
- Payment policies;
- Medical Examiners' Handbook.

(h) Ensure that examinations are conducted in a facility ~~((designed))~~ primarily designated as a professional office ~~((suitable))~~ for medical, dental, podiatric, chiropractic or psychiatric examinations where the primary use of the ~~((site))~~

facility is for medical services. The ~~((site))~~ facility must not be residential, commercial, educational or retail in nature. The ~~((site))~~ facility must be clean, sanitary and provide adequate access, climate control, light, space, and equipment. The ~~((site))~~ facility must provide for the comfort and safety of the worker and for the privacy necessary to conduct examinations and discuss medical issues. Providers must have a private disrobing area and adequate provision of examination gowns if disrobing is required.

(i) Have telephone answering capability during regular business hours, Monday through Friday, in order to schedule independent medical examinations and communicate with workers about scheduled examinations. If an exam site is open on Saturday, telephone access must be available.

(j) Agree that either the firm or the department may inactivate their IME provider number or numbers. If an IME provider number has been inactivated and the firm wishes to resume related services, they must reapply and meet current requirements.

(k) Agree to keep the department informed and updated with any new information such as exam site or administrative office locations, phone numbers or contact information.

(l) Reapply every three years in order to maintain an active IME provider number.

(i) In the first year of the new rule, effective March 1, ~~((2010))~~ 2013, all IME firms must reapply.

(ii) Firms will be notified by mail sixty days prior to their renewal application due date.

(m) Have their medical director and a representative from their quality assurance (QA) staff achieve a passing score on the *Medical Examiners' Handbook* test prior to initial application and ~~((every three years thereafter))~~ when renewal is due or required.

AMENDATORY SECTION (Amending WSR 11-01-069, filed 12/10/10, effective 1/10/11)

WAC 296-23-337 For what reasons shall the department's medical director or designee suspend or terminate approval of an independent medical examination (IME) examiner or firm? To ensure high quality independent medical examinations (IMEs), the department's medical director or designee may, in the situations described below, terminate, suspend, or inactivate approval of examiners or firms (partnerships, corporations, or other legal entities) that derive income from IMEs. IME providers must have an active pro-

vider account number to perform IMEs or provide IME related services.

FOR EXAMINERS:

(1) **AUTOMATIC TERMINATION.** The department's medical director or designee may terminate approval of examiners in situations including, but not limited to, the following:

- (a) Their license has been revoked in any jurisdiction.
- (b) A final order or stipulation to informal disposition has been issued against the examiner by a state authority in any jurisdiction including, but not limited to, the Washington state department of health, when such charges involve conduct or behavior as defined in chapter 18.130 RCW, Uniform Disciplinary Act. These include, but are not limited to:
 - (i) Sexually inappropriate conduct, behavior or language.
 - (ii) Behavior that puts a patient's safety or well-being at risk.
- (c) The examiner has committed perjury or falsified documents provided to the department or insurer.
- (d) The examiner has a criminal felony history in any jurisdiction.
- (e) The examiner has failed to reapply every three years or when required.

(2) **AUTOMATIC SUSPENSION.** The department's medical director or designee may suspend approval of examiners in situations including, but not limited to, the following listed below. The department will initiate a review within ninety days of notification. The results of the review will determine if further action is necessary, which may include termination of approval status.

- (a) The examiner has failed to meet or maintain the requirements for approval as an IME examiner.
- (b) The examiner's license or Drug Enforcement Administration (DEA) registration has been restricted in any jurisdiction. Exceptions may be granted for any restriction or offense deemed by the department to be of a minor or clerical nature.

- (c) The examiner has lost hospital privileges for cause.
- (d) A statement of charges has been filed against the examiner by a state authority in any jurisdiction, including, but not limited to the Washington state department of health, when such charges involve conduct or behavior as defined in chapter 18.130 RCW, Uniform Disciplinary Act. These include, but are not limited to:

- (i) Sexually inappropriate conduct, behavior or language.
- (ii) Behavior that puts a patient's safety or well-being at risk.
- (e) The examiner has any pending or history of criminal charges or violation of statutes or rules by any administrative agency, court or board in any jurisdiction.

(3) **OTHER EXAMINER ACTIONS.** In addition to automatic terminations and suspensions described in subsections (1) and (2) of this section, the department's medical director or designee may consider any of the following factors in determining a change in status for examiners. These status changes include temporarily unavailable, suspension or termination of the approval to conduct IMEs.

These factors include, but are not limited to:

(a) Substandard quality of reports, failure to comply with current department policy on report contents, or inability to effectively convey and substantiate medical findings, opinions, and conclusions, concerning workers.

(b) Unavailable or unwilling to testify on behalf of the department, worker, or employer.

(c) Failure to cooperate with attorneys representing a party in industrial insurance litigation at the board of industrial insurance appeals (board) by not cooperating in a timely manner to schedule preparatory activities and/or testimony during business hours and within the dates and locations ordered by the board to complete testimony.

~~(d) ((Inability to support examination and report findings in any legal proceeding as evidenced by board decisions finding the testimony less credible.~~

~~(e))~~ Failure to stay current in the area of specialty and in the areas of impairment rating, performance of IMEs, industrial injury and occupational disease/illness, industrial insurance statutes, regulations and policies.

~~((f))~~ ~~(e)~~ Substantiated complaints or pattern of complaints about the provider.

~~((g))~~ ~~(f)~~ Other disciplinary proceedings or actions not listed in subsections (1) and (2) of this section.

~~((h))~~ ~~(g)~~ Other proceedings in any court dealing with the provider's professional conduct, quality of care or criminal actions not listed in subsections (1) and (2) of this section.

~~((i))~~ ~~(h)~~ Untimely reports.

~~((j))~~ ~~(i)~~ Unavailable or unwilling to communicate with the department in a timely manner.

~~((k))~~ ~~(j)~~ Misrepresentation of information provided to the department.

~~((l))~~ ~~(k)~~ Failure to inform the department of changes or actions that may affect the approval status as an IME examiner.

~~((m))~~ ~~(l)~~ Failure to comply with the department's orders, statutes, rules, or policies.

~~((n))~~ ~~(m)~~ Failure to accept the department fee schedule rate for independent medical examinations, testimony, or other IME related services.

~~((o))~~ ~~(n)~~ Any pending action in any jurisdiction.

FOR FIRMS:

(4) **AUTOMATIC TERMINATION.** The department's medical director or designee may terminate approval of firms when they fail to reapply every three years.

(5) **AUTOMATIC SUSPENSION.** The department's medical director or designee may suspend approval of firms in situations including, but not limited to, those listed below. The department will review the matter to determine if further action is necessary, which may include termination of approval status.

(a) The firm no longer meets requirements for approval as an IME provider.

(b) The firm's representative has committed perjury or falsified documents provided to the department or insurer.

(c) A firm representative's behavior has placed a patient's safety or well-being at risk.

(6) **OTHER FIRM ACTIONS.** In addition to automatic terminations and suspensions described in subsections (4) and (5) of this section, the department's medical director or designee

nee may consider any of the following factors in determining a change in status for firms. These status changes include temporarily unavailable, suspension or termination of the approval to provide IME related services.

These factors include, but are not limited to:

- (a) Substantiated complaints or pattern of complaints about the firm.
- (b) Other disciplinary proceedings or actions not listed in subsections (4) and (5) of this section.
- (c) Other proceedings in any court dealing with the provider's professional conduct, quality of care or criminal actions not listed in subsections (4) and (5) of this section.
- (d) Untimely reports.
- (e) Unavailable or unwilling to communicate with the department in a timely manner.
- (f) Misrepresentation of information provided to the department.
- (g) Failure to inform the department of changes affecting the firm's status as an IME provider.
- (h) Failure to comply with the department's orders, statutes, rules, or policies.
- (i) Failure to accept the department fee schedule rate for independent medical examinations and services.
- (j) Any pending action in any jurisdiction.

WSR 12-21-103
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed October 23, 2012, 10:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-16-067.

Title of Rule and Other Identifying Information: Chapter 296-46B WAC, Electrical safety standards, administration, and installation.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Room S119, Tumwater, WA 98501, on December 10, 2012, at 9:00 a.m.

Date of Intended Adoption: January 22, 2013.

Submit Written Comments to: Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, e-mail sally.elliott@lni.wa.gov, fax (360) 902-5292, by 5 p.m. on December 10, 2012.

Assistance for Persons with Disabilities: Contact Sally Elliott by November 30, 2012, at Sally.elliott@lni.wa.gov or (360) 902-6411.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department reviewed the electrical rule for additions and revisions. The electrical rules were reviewed to ensure the rules are consistent with the national consensus standards and industry practice. This rule making will:

- Adopt the 2014 national electrical consensus standards. Due to the previous rule-making moratorium, the program has not adopted rules since 2009 and did not update any of the national electrical

safety standards used to regulate the electrical industry. It is critical the program conducts rule making to adopt the 2014 national electrical consensus standards - such as the National Electrical Code and current versions of the National Electrical Safety Code, national telecommunications standards and formalize policy changes that are supported by the industry - so that Washington is current with other states. Washington is now one cycle behind most other states in standards adoption. It is important for Washington to be consistent with other states and emerging technology and industry practices to ensure the same basic safety standards are required of electrical contractors and suppliers who work in multiple states.

- Adopt proposals evaluated by the department on the rule-making moratorium's exemption requirements and determined to be required by legislation and beneficial to or requested and supported by the regulated entities or small businesses they affect. This includes:

1. Proposals to provide clarification of the electrical law and policy for use in adjudicative processes by judges, stakeholders, and the department; and

2. Proposals submitted for general housekeeping, grammatical, and reference corrections to bring the rules up to date.

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, Implementation and Enforcement: Jose Rodriguez, Tumwater, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is specifically exempt from the small business economic impact statement requirement because the proposed changes will clarify rule language without changing its effect (see RCW 34.05.328 (5)(b)(iv)).

A cost-benefit analysis is required under RCW 34.05-328. A preliminary cost-benefit analysis may be obtained by contacting Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail sally.elliott@lni.wa.gov.

October 23, 2012

Judy Schurke
 Director

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-010 General. Adopted standards.

(1) The 2008 edition of the National Electrical Code (NFPA 70 - 2008) including Annex A, B, and C; ~~((the 2007 edition of standard for the Installation of Stationary Pumps for Fire Protection (NFPA 20 - 2007); the 2005 edition of~~

standard for Emergency and Standby Power Systems (NFPA 110—2005); Commercial Building Telecommunications Cabling Standard (~~((ANSI/TIA/EIA 568-B-1 June 2002 including Annex 1 through 5))~~ ANSI/TIA-568-C series, February 2009); Commercial Building Standard for Telecommunications Pathway and Spaces (~~((ANSI/TIA/EIA 569-A-7 December 2001 including Annex 1 through 4))~~ TIA-569-B, October 2004); Commercial Building Grounding and Bonding Requirements for Telecommunications (~~((ANSI/TIA/EIA 607-A—2002))~~ ANSI-TIA-607-B, August 2011); Residential Telecommunications Cable Standard (ANSI/TIA/EIA 570-B-2004); (~~(American Railroad Engineering and Maintenance of Way Association—2005 Communications and Signal Manual)~~) and the National Electrical Safety Code (NESC C2-2007 excluding Appendixes A and B) are hereby adopted by reference as part of this chapter. (~~Other codes, manuals, and reference works referred to in this chapter are available for inspection and review in the Olympia office of the electrical section of the department during business hours.~~

~~The requirements of)~~ On July 1, 2014, the 2014 edition of the National Electrical Code (NFPA 70-2014) including Annex A, B, and C is hereby adopted by reference as part of this chapter and replaces the 2008 edition.

This chapter will be (~~observed~~) followed where there is any conflict between this chapter and the (~~National Electrical Code (NFPA 70), Centrifugal Fire Pumps (NFPA 20), the Emergency and Standby Power Systems (NFPA 110), ANSI/TIA/EIA 568-B, ANSI/TIA/EIA 569-A, ANSI/TIA/EIA 607, ANSI/TIA/EIA 570, or the NESC C2-2007~~) above adopted standards.

The National Electrical Code will be followed where there is any conflict between (~~standard for Installation of Stationary Pumps for Fire Protection (NFPA 20), standard for Emergency and Standby Power Systems (NFPA 110))~~ the National Electrical Code and, ANSI/TIA/EIA 568-((B))C, ANSI/TIA/EIA 569-((A))B, ANSI/TIA/EIA 607-B, ANSI/TIA/EIA 570-B, or the NESC C2 ((and the National Electrical Code (NFPA 70))).

Inspections - General.

(2) Electrical inspectors will give information as to the interpretation or application of the standards in this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

(3) A variance from the electrical installation requirements of chapter 19.28 RCW or this chapter may be granted by the department or the city that has electrical inspection jurisdiction when it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

(a) Any electrical permit holder may request a variance.

(b) The permit holder must make the request in writing, using a form provided by the department, to the chief electrical inspector or to the city that has electrical inspection jurisdiction. The request must include:

(i) A description of the installation as installed or proposed;

(ii) A detailed list of the applicable code violations;

(iii) A detailed list of safety violations;

(iv) A description of the proposal for meeting equivalent objectives for code and/or safety violations; and

(v) Appropriate variance application fee as listed in chapter 296-46B WAC, Part C.

(4) Electrical wiring or equipment subject to this chapter must be sufficiently accessible, at the time of inspection, to allow the inspector to visually inspect the installation to verify conformance with the NEC and any other electrical requirements of this chapter.

~~(5) ((Cables or raceways, fished according to the NEC, do not require visual inspection.~~

~~(6))~~ (6) All required equipment grounding conductors installed in concealed cable or flexible conduit systems must be completely installed and made up at the time of the rough-in cover inspection.

~~((7))~~ (6) The installation of all structural elements and mechanical systems (e.g., framing, plumbing, ducting, etc.) must be complete in the area(s) where electrical inspection is requested. Prior to completion of an exterior wall cover inspection, either:

(a) The exterior shear panel/sheathing nail inspection must be completed by the building code inspector; or

(b) All wiring and device boxes must be a minimum of 63 mm (2 1/2") from the exterior surface of the framing member; or

(c) All wiring and device boxes must be protected by a steel plate a minimum of 1.6 mm (1/16") thick and of appropriate width and height installed to cover the area of the wiring or box.

~~((8))~~ (7) In order to meet the minimum electrical safety standards for installations, all materials, devices, appliances, and equipment, not exempted in chapter 19.28 RCW, must conform to applicable electrical product standards recognized by the department, be listed, or field evaluated. For any equipment that requires an amusement operating permit under chapter 67.42 RCW, the operating permit is prima facie evidence of an appropriate standard. Other than as authorized by the chief electrical inspector or a city authorized to do electrical inspection, equipment must not be energized until such standards are met.

~~((9))~~ (8) The state department of transportation is recognized as the inspection authority for telecommunications systems installations within the rights of way of state highways provided the department of transportation maintains and enforces an equal, higher or better standard of construction, and of materials, devices, appliances, and equipment than is required for telecommunications systems installations by chapter 19.28 RCW and this chapter.

Inspection move on buildings and structures.

~~((10))~~ (9) All buildings or structures relocated into or within the state:

(a) Other than residential, wired inside the United States (U.S.) must be inspected to ensure compliance with current requirements of chapter 19.28 RCW and the rules developed by the department.

(b) Wired outside the U.S. or Canada must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department.

~~((11))~~ (10) Residential buildings or structures wired in the U.S., to NEC requirements, and moved into or within a county, city, or town must be inspected to ensure compliance with the NEC requirements in effect at the time and place the

original wiring was made. The building or structure must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department if:

(a) The original occupancy classification of the building or structure is changed as a result of the move; or

(b) The building or structure has been substantially remodeled or rehabilitated as a result of the move.

~~((12))~~ (11) Residential buildings or structures wired in Canada to Canadian Electrical Code (CEC) standards and moved into or within a county, city, or town, must be inspected to ensure compliance with the following minimum safety requirements:

(a) Service, service grounding, and service bonding must comply with the current chapter 19.28 RCW and rules adopted by the department.

(b) Canadian Standards Association (CSA) listed Type NMD cable is allowed with the following qualifications:

(i) CSA listed Type NMD cable, American Wire Gauge #10 and smaller installed after 1964 utilizing an equipment grounding conductor smaller than the phase conductors, must be:

(A) Replaced with a cable utilizing a full-size equipment grounding conductor; or

(B) Protected by a ground fault circuit interrupter protection device.

(ii) CSA listed Type NMD cable, #8 AWG and larger, must:

(A) Utilize an equipment grounding conductor sized according to the requirements of the NEC in effect at the time of the installation;

(B) Be protected by a ground fault circuit interrupter protection device; or

(C) Be replaced.

(c) Other types of wiring and cable must be:

(i) Replaced with wiring listed or field evaluated in accordance with U.S. standards by a laboratory approved by the department; or

(ii) Protected by a ground fault circuit interrupter protection device and arc fault circuit protection device.

(d) Equipment, other than wiring or panelboards, manufactured and installed prior to 1997 must be listed and identified by laboratory labels approved by the department or CSA labels.

(e) All panelboards must be listed and identified by testing laboratory labels approved by the department with the following qualifications:

(i) CSA listed panelboards labeled "suitable for use as service equipment" will be considered to be approved as "suitable for use only as service equipment."

(ii) CSA listed panelboards used as panelboards as described in the NEC, must meet all current requirements of the NEC and this chapter.

(f) Any wiring or panelboards replaced or changed as a result of the move must meet current requirements of chapter 19.28 RCW and this chapter.

(g) The location, type, and ground fault circuit interrupter protection of receptacles and equipment in a bathroom, kitchen, basement, garage, or outdoor area must meet the

Washington requirements in effect at the time the wiring was installed.

(h) 4, 15-ampere, kitchen small appliance circuits will be accepted in lieu of 2, 20-ampere, kitchen small appliance circuits. Receptacles will not be required to be added on kitchen peninsular or island counters.

(i) Spacing requirements for all other receptacles must meet the Washington requirements in effect at the time the wiring was installed.

(j) Receptacles installed above baseboard or fixed wall space heaters must be removed and the outlet box covered with a blank cover. The receptacle is required to be relocated as closely as possible to the existing location.

(k) Lighting outlet and switch locations must meet the Washington requirements in effect at the time the wiring was installed.

(l) Dedicated 20-ampere small appliance circuits are not required in dining rooms.

(m) Electric water heater branch circuits must be adequate for the load.

(n) The location, type, and circuit protection of feeders must meet the Washington requirements in effect at the time the wiring was installed.

Wiring methods for designated building occupancies.

~~((13))~~ (12) Wiring methods ~~(, equipment, and devices for health or personal care;)~~ in places of assembly located within educational ~~(and)~~ or institutional facilities as defined or classified in this chapter ~~(and for places of assembly for one hundred or more persons)~~ must ~~(comply with Tables 010-1 and 010-2 of this chapter and the notes thereto. The local building authority will determine the occupant load of places of assembly)~~ be wired in metallic or nonmetallic raceways, MI, MC, or AC cable. Assisted living facility generator systems may be wired and installed per NEC 517.

(13) Lawfully installed existing electrical installations that do not comply with the provisions of this chapter and remain in compliance with the code at the time of the installation, will be permitted to be continued without change (i.e., without circuitry or occupancy change). Additions, alterations, modifications, or repairs to the electrical system must conform to the current requirements of this chapter.

(14) Listed tamper-resistant receptacles are required in all licensed day care centers, all licensed children group care facilities, and psychiatric patient care facilities where accessible to children five years of age and under. Listed tamper-resistant receptacles are required in psychiatric patient care facilities where accessible to psychiatric patients over five years of age and the public access areas in medical facilities.

((Notes to Tables 010-1 and 010-2.

1. Wiring methods in accordance with the NEC unless otherwise noted.

2. Metallic or nonmetallic raceways, MI, MC, or AC cable, except that in places of assembly located within educational or institutional facilities, wiring methods must conform to NEC 518.4(A). Places of assembly located within educational or institutional facilities may not be wired according to NEC 518.4(B) or (C).

((Notes to Tables 010-1 and 010-2.
3. Limited energy systems may use wiring methods in accordance with the NEC.
4. Generator systems may be installed and wired per NEC-517.

Table 010-1 Health or Personal Care Facilities

Health or Personal Care Facility Type⁽⁺⁾	
Hospital	
Nursing home unit or long-term care unit	
Boarding home	
Assisted living facility ⁽⁺⁾	
Private alcoholism hospital	
Alcoholism treatment facility	
Private psychiatric hospital	
Maternity home	
Birth center or childbirth center	
Ambulatory surgery facility	
Hospice care center	
Renal hemodialysis clinic	
Medical, dental, and chiropractic clinic	
Residential treatment facility for psychiatrically impaired children and youth	
Adult residential rehabilitation center	
Group care facility	

Table 010-2 Educational and Institutional Facilities, Places of Assembly or Other Facilities

Educational, Institutional or Other Facility Types	
Educational ⁽²⁾⁽³⁾	
Institutional ⁽²⁾⁽³⁾	
Places of Assembly for 100 or more persons ⁽⁺⁾	
Child day care center ⁽⁺⁾	
School-age child care center ⁽⁺⁾	
Family child day care home, family child care home, or child day care facility ⁽⁺⁾	

Traffic management systems.

(15) The department or city authorized to do electrical inspections will perform the electrical inspection and acceptance of traffic management systems within its jurisdiction. A traffic management system includes:

- (a) Traffic illumination systems;
- (b) Traffic signal systems;
- (c) Traffic monitoring systems;
- (d) The electrical service cabinet and all related components and equipment installed on the load side of the service cabinet supplying electrical power to the traffic management system; and

(e) Signalization system(s) necessary for the operation of a light rail system.

A traffic management system can provide signalization for controlling vehicular traffic, pedestrian traffic, or rolling stock.

(16) The department or city authorized to do electrical inspections recognizes that traffic signal conductors, pole and bracket cables, signal displays, traffic signal controllers/cabinets and associated components used in traffic management systems are acceptable for the purpose of meeting the requirements of chapter 19.28 RCW provided they conform with the following standards or are listed on the Washington state department of transportation (WSDOT) qualified products list.

- (a) WSDOT/APWA standard specifications and plans;
- (b) WSDOT *Design Manual*;
- (c) International Municipal Signal Association (IMSA);
- (d) National Electrical Manufacturer's Association (NEMA);
- (e) Federal Standards 170/Controller Cabinets;
- (f) Manual for *Uniform Road, Bridge, and Municipal Construction*;
- (g) Institute of Transportation Engineers (ITE); or
- (h) Manual of *Uniform Traffic Control Devices (MUTCD)*.

(17) Associated induction detection loop or similar circuits will be accepted by the department or city authorized to do electrical inspections without inspection.

(18) For the licensing requirements of chapter 19.28 RCW, jurisdictions will be considered owners of traffic management systems when doing electrical work for another jurisdiction(s) under a valid interlocal agreement, as permitted by chapter 39.34 RCW. Interlocal agreements for traffic management systems must be filed with the department or city authorized to do electrical inspections prior to work being performed for this provision to apply.

(19) Jurisdictions, with an established electrical inspection authority, and WSDOT may perform electrical inspection on their rights of way for each other by interlocal agreement. They may not perform electrical inspection on other rights of way except as allowed in chapter 19.28 or 39.34 RCW.

(20) Underground installations.

(a) In other than open trenching, raceways will be considered "fished" according to the NEC and do not require visual inspection.

(b) The department or city authorized to do electrical inspections will conduct inspections in open trenching within its jurisdiction. The electrical work permit purchaser must coordinate the electrical inspection. A written request (e.g., letter, e-mail, fax, etc.) for inspection, made to the department or city authorized to do electrical inspections office having the responsibility to perform the inspection, must be made a minimum of two working days prior to the day inspection is needed (e.g., two working days 10:00 a.m. Tuesday request for a 10:00 a.m. Thursday inspection, excluding holidays and weekends).

If, after proper written request, the department or city authorized to do electrical inspections fails to make an electrical inspection at the time requested, underground conduit

may be covered after inspection by the local government jurisdiction's project inspector/designee. Written documentation of a local government jurisdiction inspection must be provided to the department or city authorized to do electrical inspections when requested. Written documentation will include:

- (i) Date and time of inspection;
- (ii) Location;
- (iii) Installing firm;
- (iv) Owner;
- (v) Type of conduit;
- (vi) Size of conduit;
- (vii) Depth of conduit; and
- (viii) Project inspector/designee name and contact information.

(21) Identification of traffic management system components. Local government jurisdictions or WSDOT may act as the certifying authority for the safety evaluation of all components.

(a) An electrical service cabinet must contain only listed components. The electrical service cabinet enclosure is not required to be listed but will conform to the standards in subsection (22) of this section.

(b) The local government jurisdiction must identify, as acceptable, the controller cabinet or system component(s) with an identification plate. The identification plate must be located inside the cabinet and may be attached with adhesive.

(22) Conductors of different circuits in same cable, enclosure, or raceway. All traffic management system circuits will be permitted to occupy the same cable, enclosure, or raceway without regard to voltage characteristics, provided all conductors are insulated for the maximum voltage of any conductor in the cable, enclosure, or raceway.

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-100 General definitions. ~~((+))~~ All definitions listed in the National Electrical Code and chapter 19.28 RCW are recognized in this chapter unless other specific definitions are given in this chapter and chapter 19.28 RCW. The definitions in this section apply to all parts of this chapter. Some sections may have definitions specific to that section.

~~((2))~~ "Accreditation" is a determination by the department that a laboratory meets the requirements of this chapter and is therefore authorized to evaluate electrical products that are for sale in the state of Washington.

~~((3))~~ "Administrative law judge" means an administrative law judge (ALJ) appointed pursuant to chapter 34.12 RCW and serving in board proceedings pursuant to chapter 19.28 RCW and this chapter.

~~((4))~~ "ANSI" means American National Standards Institute. Copies of ANSI standards are available from the National Conference of States on Building Codes and Standards, Inc.

~~((5))~~ "Appeal" is a request for review of a department action by the board as authorized by chapter 19.28 RCW.

~~((6))~~ "Appellant" means any person, firm, partnership, corporation, or other entity that has filed an appeal or request for board review.

~~((7))~~ "Appliance" means household appliance.

~~((8))~~ "ASTM" means the American Society for Testing and Materials. Copies of ASTM documents are available from ASTM International.

~~((9))~~ "AWG" means American Wire Gauge.

~~((10))~~ "Basement" means that portion of a building that is partly or completely below grade plane. A basement ~~((shall))~~ will be considered as a story above grade plane and not a basement where the finished surface of the floor above the basement is:

(a) More than 1829 mm (six feet) above grade plane;

(b) More than 1829 mm (six feet) above the finished ground level for more than 50% of the total building perimeter; or

(c) More than 3658 mm (twelve feet) above the finished ground level at any point. Also see "mezzanine" and "story."

~~((11))~~ "Board" means the electrical board established and authorized under chapter 19.28 RCW.

~~((12))~~ "Chapter" means chapter 296-46B WAC unless expressly used for separate reference.

~~((13))~~ "Category list" is a list of manufacturing safety standards or product types determined by the department.

~~((14))~~ A "certified electrical product" is an electrical product to which a laboratory, accredited by the state of Washington, has the laboratory's certification mark attached.

~~((15))~~ A "certification mark" is a specified laboratory label, symbol, or other identifying mark that indicates the manufacturer produced the product in compliance with appropriate standards or that the product has been tested for specific end uses.

~~((16))~~ "Certificate of competency" includes the certificates of competency for master journeyman electrician, master specialty electrician, journeyman, and specialty electrician.

~~((17))~~ A laboratory "certification program" is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority, regulating the evaluation of electrical products for certification marking by an electrical products certification laboratory.

~~((18))~~ A "complete application" includes the submission of all appropriate fees, documentation, and forms.

~~((19))~~ "Construction," for the purposes of chapter 19.28 RCW, means electrical construction.

~~((20))~~ "Coordination (selective)" as defined in NEC 100 ~~((shall))~~ must be determined and documented by a professional engineer registered under chapter 18.43 RCW.

~~((21))~~ "Department" means the department of labor and industries of the state of Washington.

~~((22))~~ "Director" means the director of the department, or the director's designee.

~~((23))~~ "Egress - Unobstructed (as applied to NEC 110.26 (C)(2)(a))" means an egress path that allows a worker to travel to the exit from any other area in the room containing the equipment described in NEC 110.26 (C)(2) without having to pass through that equipment's required working space.

((24)) "Electrical equipment" includes electrical conductors, conduit, raceway, apparatus, materials, components, and other electrical equipment not exempted by RCW 19.28.006(9). Any conduit/raceway of a type listed for electrical use is considered to be electrical equipment even if no wiring is installed in the conduit/raceway at the time of the conduit/raceway installation.

((25)) An "electrical products certification laboratory" is a laboratory or firm accredited by the state of Washington to perform certification of electrical products.

((26)) An "electrical products evaluation laboratory" is a laboratory or firm accredited by the state of Washington to perform on-site field evaluation of electrical products for safety.

((27)) "Field evaluated" means an electrical product to which a field evaluation mark is attached. Field evaluation must include job site inspection unless waived by the department, and may include component sampling and/or laboratory testing.

((28)) "Field evaluation mark" is a specified laboratory label, symbol, or other identifying mark indicating the manufacturer produced the product in essential compliance with appropriate standards or that the product has been evaluated for specific end uses.

((29)) A "field evaluation program" is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority regulating the testing and evaluation of electrical products for field evaluation marking.

((30)) The "filing" is the date the document is actually received in the office of the chief electrical inspector.

((31)) "Final judgment" means any money that is owed to the department under this chapter, including fees and penalties, or any money that is owed to the department as a result of an individual's or contractor's unsuccessful appeal of a citation.

((32)) "Fished wiring" is when cable or conduit is installed within the finished surfaces of an existing building or building structure (e.g., wall, floor or ceiling cavity).

((33)) "Household appliance" means utilization equipment installed in a dwelling unit that is built in standardized sizes or types and is installed or connected as a unit to perform one or more functions such as cooking and other equipment installed in a kitchen, clothes drying, clothes washing, portable room air conditioning units and portable heaters, etc. Fixed electric space-heating equipment covered in NEC 424 (furnaces, baseboard and wall heaters, electric heat cable, etc.) and fixed air-conditioning/heat pump equipment (NEC 440) are not household appliances. Household appliance does not mean any utilization equipment that:

(a) Supplies electrical power, other than Class 2, to other utilization equipment; or

(b) Receives electrical power, other than Class 2, through other utilization equipment.

((34)) HVAC/refrigeration specific definitions:

(a) "HVAC/refrigeration" means heating, ventilation, air conditioning, and refrigeration.

(b) "HVAC/refrigeration component" means electrical power and limited energy components within the "HVAC/refrigeration system," including, but not limited to: Pumps,

compressors, motors, heating coils, controls, switches, thermostats, humidistats, low-voltage damper controls, outdoor sensing controls, outside air dampers, stand-alone duct smoke detectors, air monitoring devices, zone control valves and equipment for monitoring of HVAC/refrigeration control panels and low-voltage connections. This definition excludes equipment and components of non-"HVAC/refrigeration control systems."

(c) "HVAC/refrigeration control panel" means an enclosed, manufactured assembly of electrical components designed specifically for the control of a HVAC/refrigeration system. Line voltage equipment that has low voltage, NEC Class 2 control or monitoring components incidental to the designed purpose of the equipment is not an HVAC/refrigeration control panel (e.g., combination starters).

(d) "HVAC/refrigeration control system" means a network system regulating and/or monitoring a HVAC/refrigeration system. Equipment of a HVAC/refrigeration control system includes, but is not limited to: Control panels, data centers, relays, contactors, sensors, and cables related to the monitoring and control of a HVAC/refrigeration system(s).

(e) "HVAC/refrigeration equipment" means the central unit primary to the function of the "HVAC/refrigeration system." HVAC/refrigeration includes, but is not limited to: Heat pumps, swamp coolers, furnaces, compressor packages, and boilers.

(f) "HVAC/refrigeration system" means a system of HVAC/refrigeration: Wiring, equipment, and components integrated to generate, deliver, or control heated, cooled, filtered, refrigerated, or conditioned air. This definition excludes non-HVAC/refrigeration control systems (e.g., fire alarm systems, intercom systems, building energy management systems, and similar non-HVAC/refrigeration systems) ((see Figure 920-1 and Figure 920-2)).

((35)) "IBC" means the International Building Code. Copies of the IBC are available from the International Code Council.

((36)) An "individual" or "party" or "person" means an individual, firm, partnership, corporation, association, government subdivision or unit thereof, or other entity.

((37)) An "installation" includes the act of installing, connecting, repairing, modifying, or otherwise performing work on an electrical system, component, equipment, or wire except as exempted by WAC 296-46B-925. An installation is not the passive testing or operational programming of an electrical system, component, equipment, or wire. See "passive testing."

((38)) An "identification plate" is suitable for the environment and is a printed or etched adhesive label approved by the department or a phenolic or metallic plate or other similar material engraved in block letters at least 1/4" (6 mm) high unless specifically required to be larger by this chapter, suitable for the environment and application. The letters and the background must be in contrasting colors. Screws, rivets, permanent adhesive, or methods specifically described in this chapter must be used to affix an identification plate to the equipment or enclosure.

((39)) "Job site" means a specific worksite having a single address or specific physical location (e.g., a single

family residence, a building, a structure, a marina, and individual apartment building with a specific address, etc.).

"License" means a license required under chapter 19.28 RCW.

~~((40))~~ "Labeled" means an electrical product that bears a certification mark issued by a laboratory accredited by the state of Washington.

~~((41))~~ A "laboratory" may be either an electrical product(s) certification laboratory or an electrical product(s) evaluation laboratory.

~~((42))~~ A "laboratory operations control manual" is a document to establish laboratory operation procedures and may include a laboratory quality control manual.

~~((43))~~ "Like-in-kind" means having the same overcurrent protection requirements and similar characteristics such as voltage requirement, current draw, ~~(circuit overcurrent and)~~ short circuit characteristics, and function within the system and being in the same location. Like-in-kind also includes any equipment component authorized by the manufacturer as a suitable component replacement part.

~~((44))~~ For the purpose of WAC 296-46B-940~~((6))~~, a "lineman" is a person employed by a serving electrical utility or employed by a licensed general electrical contractor who carries, on their person, evidence that they:

(a) Have graduated from a department-approved lineman's apprenticeship course; or

(b) Are currently registered in a department-approved lineman's apprenticeship course and are working under the direct one hundred percent supervision of a journeyman electrician or a graduate of a lineman's apprenticeship course approved by the department. The training received in the lineman's apprenticeship program must include training in applicable articles of the currently adopted National Electrical Code.

~~((45))~~ "Listed" means equipment has been listed and identified by a laboratory approved by the state of Washington for the appropriate equipment standard per this chapter.

~~((46))~~ "Low voltage" means:

(a) NEC, Class 1 power limited circuits at 30 volts maximum.

(b) NEC, Class 2 circuits powered by a Class 2 power supply as defined in NEC 725.121(A).

(c) NEC, Class 3 circuits powered by a Class 3 power supply as defined in NEC 725.121(A).

(d) Circuits of telecommunications systems as defined in chapter 19.28 RCW.

~~((47))~~ "Member of the firm" means the member(s) on file with the department of licensing for sole proprietorships/partnerships or with the secretary of state for corporations.

"Mezzanine" is the intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third of the area of the room or space in which the level or levels are located. Also see "basement" and "story."

~~((48))~~ "NEC" means National Electrical Code. Copies of the NEC are available from the National Fire Protection Association.

~~((49))~~ "NEMA" means National Electrical Manufacturer's Association. Copies of NEMA standards are available from the National Electrical Manufacturer's Association.

~~((50))~~ "NESC" means National Electrical Safety Code. Copies of the NESC are available from the Institute of Electrical and Electronics Engineers, Inc.

~~((51))~~ "NETA" means International Electrical Testing Association, Inc. Copies of the NETA standards and information are available from the International Electrical Testing Association, Inc.

~~((52))~~ "NFPA" means the National Fire Protection Association. Copies of NFPA documents are available from the National Fire Protection Association.

~~((53))~~ "NRTL" means Nationally Recognized Testing Laboratory accredited by the federal Occupational Safety and Health Administration (OSHA) after meeting the requirements of 29 C.F.R. 1910.7.

~~((54))~~ "Passive testing" (e.g., pressing of test buttons, use of testing equipment like voltage testers, clamp-on meters, removal of a device head where the wiring is terminated on a separate base plate, etc.) means testing that does not require any:

(a) Physical modification to the electrical system wiring; or

(b) Wiring to be disconnected or terminated, except as necessary for an approved electrical testing laboratory or approved engineer performing an equipment evaluation.

"Point of contact" or "point of connection" means the service point.

~~((55))~~ "Proceeding" means any matter regarding an appeal before the board including hearings before an administrative law judge.

~~((56))~~ "Public area or square" is an area where the public has general, clear, and unrestricted access.

~~((57))~~ A "quality control manual" is a document to maintain the quality control of the laboratory's method of operation. It consists of specified procedures and information for each test method responding to the requirements of the product standard. Specific information must be provided for portions of individual test methods when needed to comply with the standard's criteria or otherwise support the laboratory's operation.

~~((58))~~ "RCW" means the Revised Code of Washington. Copies of electrical RCWs are available from the department and the office of the code reviser.

~~((59))~~ "Readily accessible" means the definition as defined in NEC 100. In addition, it means that, except for keys, no tools or other devices are necessary to gain access (e.g., covers secured with screws, etc.).

~~((60))~~ Service specific definitions replacing those found in NEC Article 100:

(a) "Service drop" means the overhead service conductors from the service point to the connection to the service-entrance conductors at the building or other structure.

(b) "Service-entrance conductors, overhead system" means the service conductors between the terminals of the service equipment and a point usually outside the building, clear of building walls, where joined by tap or splice to the service drop or service point.

(c) "Service-entrance conductors, underground system" means the service conductors between the terminals of the service equipment and the point of connection to the service lateral or service point. Where the service equipment is located outside the building walls, there may be no service-entrance conductors or they may be entirely outside the building.

(d) "Service lateral" means the underground service conductors from the service point to the point of connection to the service-entrance conductors in a terminal box, meter, or other enclosure. Where there is not a terminal box, meter, or other enclosure, the point of connection is the point of entrance of the service conductors into the building.

~~((61))~~ A "stand-alone amplified sound or public address system" is a system that has distinct wiring and equipment for audio signal generation, recording, processing, amplification, and reproduction. This definition does not apply to telecommunications installations.

~~((62))~~ "Service" or "served" means that as defined in RCW 34.05.010(19) when used in relation to department actions or proceedings.

~~((63))~~ A "sign," when required by the NEC, for use as an identification method (e.g., legibly marked, legible warning notice, marked, field marked, permanent plaque/directory, etc.) means "identification plate."

~~((64))~~ "Story" is that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. Next above means vertically and not necessarily directly above. Also see "basement" and "mezzanine."

~~((65))~~ "Structure," for the purposes of this chapter and in addition to the definition in the NEC, means something constructed either in the field or factory that is used or intended for supporting or sheltering any use or occupancy as defined by the IBC.

~~((66))~~ "Supervision" for the purpose of supervising electrical trainees, means that the appropriately certified supervising electrician is on the same job site as the trainee being supervised. The trainee is not considered to be on the same job site if the supervising electrician and the trainee are working:

(a) In separate buildings at a single address (e.g., a campus, multibuilding industrial complex, multibuilding apartment complex, etc.) except for a single-family residence; or

(b) On an outdoor project (e.g., irrigation system, farm, street lighting, traffic signalization, etc.) where the trainee is more than one thousand feet from the supervising electrician or where the trainee is more than two hundred feet from the supervising electrician and out of sight.

"System design review" means a set of design documents that include the manufacturer's installation information, a legible one-line diagram of the system design, and calculations used to determine voltage and current within the system. The one-line diagram must show the system equipment, devices, overcurrent protection, conductor sizing, grounding, ground fault protection if required, and any system interconnection points. The review must be available to the inspector during all inspections.

"Telecommunications" means any transmission, emission, and reception of data over radio frequency, wire, or

optical fiber from a transmitter(s) to a receiver(s). The mode of modulation may be either analog or digital. Telecommunications is not the transmission of any level of electrical power that is used to provide operational power (e.g., relay operation, motor function, lighting power, switching power, device power, etc.). If a circuit contains both operational power and telecommunications, the circuit is not telecommunications.

A "telecommunications local service provider" is a regulated or unregulated (e.g., by the Federal Communications Commission or the utilities and transportation commission as a telephone or telecommunications provider) firm providing telecommunications service ahead of the telecommunications network demarcation point to an end-user's facilities.

~~((67))~~ "TIA/EIA" means the Telecommunications Industries Association/Electronic Industries Association which publishes the TIA/EIA Telecommunications Building Wiring Standards. Standards and publications are adopted by TIA/EIA in accordance with the American National Standards Institute (ANSI) patent policy.

~~((68))~~ A "training school" is a public community or technical college or not-for-profit nationally accredited technical or trade school licensed by the work force training and education coordinating board under chapter 28C.10 RCW.

~~((69))~~ "Under the control of a utility" for the purposes of RCW 19.28.091 and 19.28.101 is when electrical equipment is not owned by a utility and:

(a) Is located in a vault, room, closet, or similar enclosure that is secured by a lock or seal so that access is restricted to the utility's personnel; or

(b) The utility is obligated by contract to maintain the equipment and the contract provides that access to the equipment is restricted to the utility's personnel or other qualified personnel.

~~((70))~~ "UL" means Underwriters Laboratory.

~~((71))~~ "Utility" means an electrical utility.

~~((72))~~ "Utility system" means electrical equipment owned by or under the control of a serving utility that is used for the transmission or distribution of electricity from the source of supply to the point of contact and is defined in section 90.2 (b)(5) of the National Electrical Code, 1981 edition (see RCW 19.28.010(1)).

~~((73))~~ "Utilization voltage" means the voltage level employed by the utility's customer for connection to lighting fixtures, motors, heaters, or other electrically operated equipment other than power transformers.

~~((74))~~ "Variance" is a modification of the electrical requirements as adopted in chapter 19.28 RCW or any other requirements of this chapter that may be approved by the chief electrical inspector if assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

~~((75))~~ "WAC" means the Washington Administrative Code. Copies of this chapter of the WAC((s)) are available from the department and the office of the code reviser.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-110 General—Requirements for electrical installations.

003 Examination, identification, installation, and use of equipment.

(1) Listed electrical conduit can only be installed and used in accordance with its listing (i.e., as an electrical raceway for electrical conductors). If used as a sleeve for electrical conductors or other listed electrical conduits, the installation of a listed electrical conduit will be assumed to be for use as an electrical raceway and must be installed as allowed by chapter 19.28 RCW and this chapter (e.g., owner exemption, electrical contractor, etc.).

011 Deteriorating agents.

(2) Electrical equipment and wiring that has been submerged or exposed to water must comply with the following:

(a) All breakers, fuses, controllers, receptacles, lighting switches/dimmers, electric heaters, and any sealed device/equipment (e.g., relays, contactors, etc.) must be replaced.

(b) All other electrical equipment (e.g., wiring, breaker panelboards, disconnect switches, switchgear, motor control centers, boiler controls, HVAC/R equipment, electric motors, transformers, appliances, water heaters, and similar appliances) must be replaced or reconditioned by the original manufacturer or by its approved representative.

016 Flash protection.

(3) The flash protection marking required by NEC 110.16 must be an identification plate ~~((or label approved by the electrical inspector and may be installed either in the field or in the factory. The plate or label may be mounted using adhesive))~~.

022 Identification of disconnecting means.

(4) For the purposes of legibly marking a disconnecting means, as required in NEC 110.22, an identification plate is required unless the disconnect is a circuit breaker/fused switch installed within a panelboard and the circuit breaker/fused switch is identified by a panelboard schedule. In other than dwelling units, the identification plate must include the identification designation of the circuit source panelboard that supplies the ~~((disconnect))~~ disconnecting means.

030 Over 600 volts - general.

(5) Each cable operating at over 600 volts and installed on customer-owned systems must be legibly marked in a permanent manner at each termination point and at each point the cable is accessible. The required marking must use phase designation, operating voltage, and circuit number if applicable.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-210 Wiring and protection—Branch circuits. 008(A) Dwelling units GFCI requirements.

(1) In a garage or unfinished basement, a red receptacle, with a red cover plate, supplying a fire alarm system is not required to have ground-fault circuit-interrupter protection. The receptacle must be identified for use only with the fire

alarm system by an identification plate or engraved cover with letters at least 1/4" high.

008(B) Other than dwelling units - GFCI requirements.

(2) GFCI requirements.

(a) For the purposes of NEC 210.8(B), kitchen means any area where utensils, dishes, etc., are cleaned or where food or beverages are prepared or cooked.

(b) All 125-volt, 15- and 20-ampere receptacles installed in wet locations must have Class A ground-fault circuit interrupter protection for personnel.

011 Branch circuits.

(3) A raceway system or one dedicated 15-ampere minimum, 120 volt circuit must be taken to all unfinished space areas adaptable to future dwelling unit living areas that are not readily accessible to the service or branch circuit panelboard. One circuit or raceway is required for each 480 square feet or less of unfinished space area. If the total adjacent unfinished space area is less than 480 square feet, the circuit can be an extension of an existing circuit. The circuits must terminate in a suitable box(es). The box must contain an identification of the intended purpose of the circuit(s). The branch circuit panelboard must have adequate space and capacity for the intended load(s).

012 Arc-fault circuit-interrupter protection.

(4) NEC 210.12(B) is amended to require AFCI protection only for dwelling unit bedroom spaces.

(a) Dwelling unit bedroom spaces include spaces that:

(i) Are used as the bedroom;

(ii) Are accessed only through the bedroom;

(iii) Are ancillary to the bedroom's function (e.g., closets, sitting areas, etc.);

(iv) Contain branch circuits that supply 125-volt, 15-and 20-ampere, outlets; and

(v) Are not bathrooms.

(b) If a new circuit(s) is added in an existing dwelling unit bedroom, an existing outlet(s) that is not connected to the new circuit(s) does not require arc-fault circuit interrupter protection if the outlet(s) was installed before December 1, 2005.

(c) If an existing circuit, installed before December 1, 2005, is extended, arc-fault circuit interrupter protection is not required.

(d) Arc-fault circuit interrupter protection is not required to be used for smoke or fire alarm outlets.

025 Common area branch circuits.

(5) For the purpose of NEC 210.25, loads for septic or water well systems that are shared by no more than two dwelling units may be supplied from either of the two dwelling units if approved by the local building official and local health department.

052 (A)(2) Dwelling unit receptacle outlets.

(6) For the purpose of NEC 210.52 (A)(2)(1), "similar openings" include the following configurations that are a permanent part of the dwelling configuration or finish:

(a) Window seating; and

(b) Bookcases or cabinets that extend from the floor to a level at least 1.7 meters (five (5) feet six (6) inches) above the floor.

Any outlets eliminated by such window seating, bookcases, or cabinets must be installed elsewhere within the room.

052 (E)(3) Outdoor outlets.

(7) For the purposes of NEC 210.52 (E)(3), the exception will read: Balconies, decks, or porches with an area of less than 1.86 m² (20 ft²) are not required to have a receptacle installed.

052(B) Receptacle outlet locations.

(8) Receptacle outlets installed in appliance garages may be counted as a required countertop outlet.

052(C) Countertops.

~~(9) ((A receptacle(s) is not required to be installed in the area directly behind a sink or range as shown in NEC 210.52, Figure 210.52 (C)(1). Outlets must be installed within 24" on either side of a sink or range as shown in Figure 210.52 (C)(1).~~

~~(10))~~ If it is impracticable to install the outlet(s) required in NEC 210.52 (C)(3), a receptacle is not required on any peninsular counter surface as required by NEC 210.52 (C)(3) so long as the peninsular counter area extends no farther than 6' from the face of the adjoining countertop. Any outlet(s) eliminated using this subsection must be installed in the wall space at the point where the peninsula connects to the wall countertop in addition to the outlets required by NEC 210.52 (C)(1).

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-215 Wiring and protection—Feeders.

005 Diagrams of feeders.

(1) Other than plan review projects, the installer must provide a one-line diagram showing the service and feeder details for the project before the initial inspection can be approved for all nondwelling services or feeders:

- (a) Larger than 400 amperes; or
- (b) Over 600 volts.

The diagram must be signed and dated by the project owner if the owner is doing the work, ~~((or))~~ the assigned administrator or master electrician if an electrical contractor is doing the work, or stamped with an engineer's mark and signature who is registered under chapter 18.43 RCW. The diagram must show:

(c) All services including: Wire size(s), wire type(s), service size(s) (e.g., voltage, phase, ampacity), overcurrent protection, available symmetrical fault current at the service point, equipment short-circuit rating, total load before and after demand factors have been applied including any demand factors used, and a panel schedule where multiple disconnecting devices are present; and

(d) All feeders including: Wire size(s), wire type(s), feeder size(s) (e.g., voltage, phase, ampacity), overcurrent protection, total calculated load before and after demand factors have been applied including any demand factors used, and a panel schedule(s) where multiple disconnecting devices are present.

If the installer deviates, in any way, from the service/feeder design shown on the diagram, a supplemental diagram must be supplied to the inspector showing the most

recent design before inspection can proceed. Load reductions and moving branch circuit locations within a panelboard do not require a supplemental diagram. Written documentation must also be provided to the inspector that the supplemental diagram was provided to the project owner at the time of submission to the inspector.

The diagram must be available on the job site during the inspection process.

010 Ground fault protection testing.

(2) Equipment ground fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. This test or a subsequent test must include all system feeders unless the installer can demonstrate, in a manner acceptable to the inspector, that there are no grounded conductor connections to the feeder(s). A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be provided for the inspector's records at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-220 Wiring and protection—Branch circuit, feeder, and service calculations.

~~((003 Branch circuit calculations:~~

~~Occupancy lighting loads.))~~ **012 Lighting load calculations.**

In determining feeder and service entrance conductor sizes and equipment ratings, the currently adopted Washington state energy code unit lighting power allowance table and footnotes may be used in lieu of NEC 220.12.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-225 Wiring and protection—Outside branch circuits and feeders.

030 Number of supplies.

(1) For the purposes of NEC 225.30(A) and this section, ~~((if a property has only))~~ a ~~((single))~~ building/structure that is supplied from a remote service, ~~((the building))~~ may be supplied by no more than ~~((two))~~ six feeders originating from the service equipment and with each feeder terminating in a single disconnecting means at the building/structure. The service equipment must contain overcurrent protection appropriate to each feeder. The building disconnecting means required by NEC 225.32 must be ~~((located))~~ grouped, within sight, and all be within ((5)) 10' of each other.

032 Location of outside feeder disconnecting means.

(2) The ~~((building))~~ disconnecting means required by NEC 225.32 must be provided to disconnect all ungrounded conductors that supply or pass through a building ~~((or))~~ structure ~~((per))~~ in accordance with the requirements of NEC 225.32 ~~((except for Exceptions 1, 2, 3, or 4) in accordance~~

~~with (a) or (b) of this subsection))~~ with the following exceptions.

(a) Outside location: ~~((Except for an outdoor generator set described in a NEC 700, 701, or 702 system, where the))~~ A feeder disconnecting means, including that required by NEC 700, 701, or 702 for a generator, is considered in the building if installed on the outside ((a)) of the building ((or)) structure((- it must be on the building or structure)) or within sight and within fifteen feet of the building ((or)) structure ((supplied)). The building disconnecting means may supply only one building/structure unless the secondary building(s)/structure(s) has a separate building disconnecting means meeting the requirements of the NEC and this subsection. The disconnecting means must have an identification plate with at least one-half-inch high letters identifying:

- (i) The building/structure served; and
- (ii) Its function as the building/structure main disconnect(s).

(b) Inside location: The feeder disconnecting means may be installed anywhere inside a building or structure when there is a feeder disconnecting means, located elsewhere on the premises, with overcurrent protection sized for the feeder conductors.

(3) A generator disconnecting means installed per subsection (2)(a) or (b) of this section, is not required to be suitable for use as service equipment.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-230 Wiring and protection—Services.

001 General service requirements.

(1) The owner, the owner's agent, or the electrical contractor making the installation must consult the serving utility regarding the utility's service entrance requirements for equipment location and meter equipment requirements before installing the service and equipment. Provisions for a meter and related equipment, an attachment of a service drop, or an underground service lateral must be made at a location acceptable to the serving utility. The point of contact for a service drop must permit the clearances required by the NEC.

(2) A firewall must have a minimum two-hour rating as defined by the local building official to be considered a building separation in accordance with Article 100 NEC.

(3) The height of the center of the service meter must be as required by the serving utility. Secondary instrument transformer metering conductor(s) are not permitted in the service raceway.

028 Service or other masts.

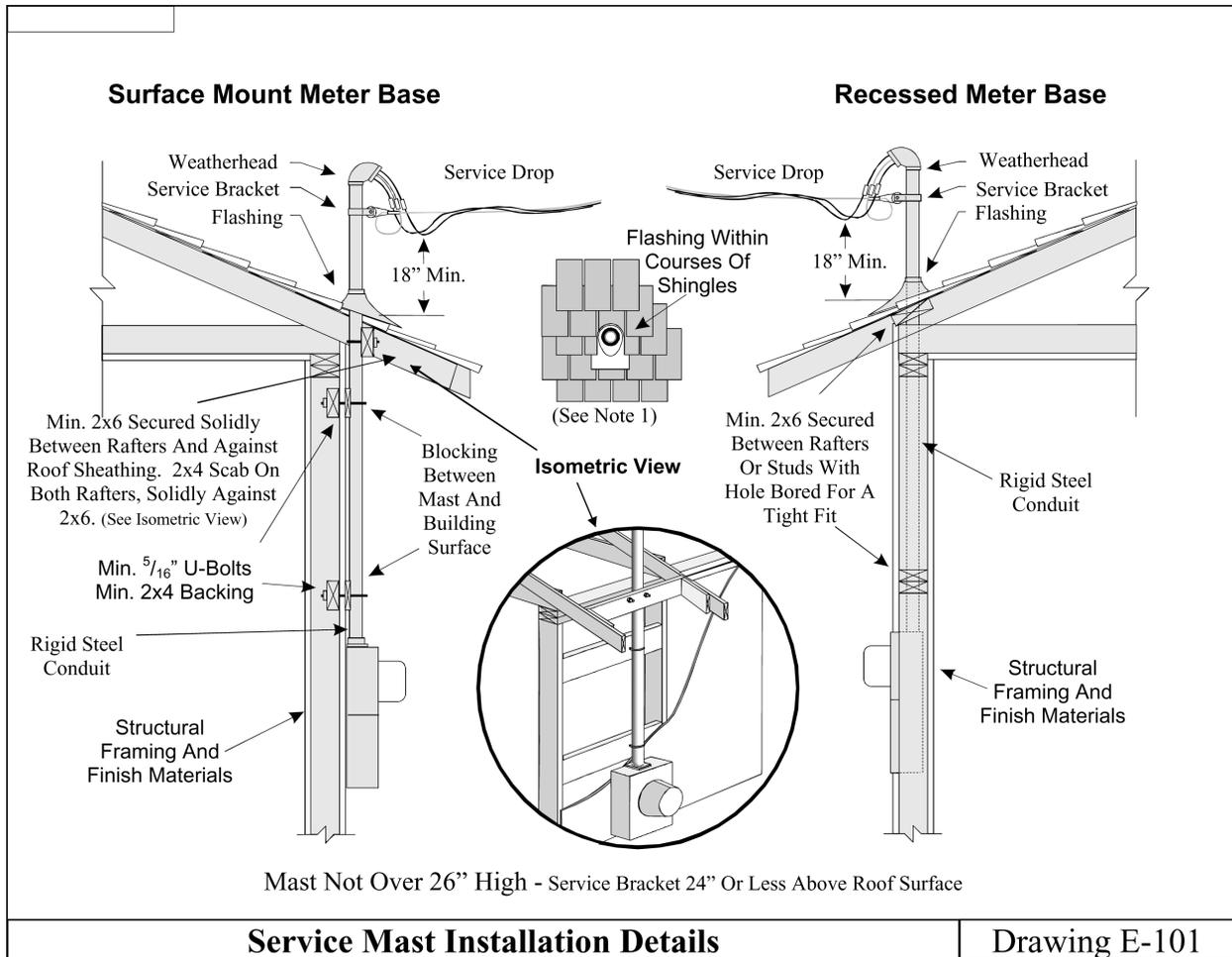
(4) Conduit extended through the roof to provide means of attaching:

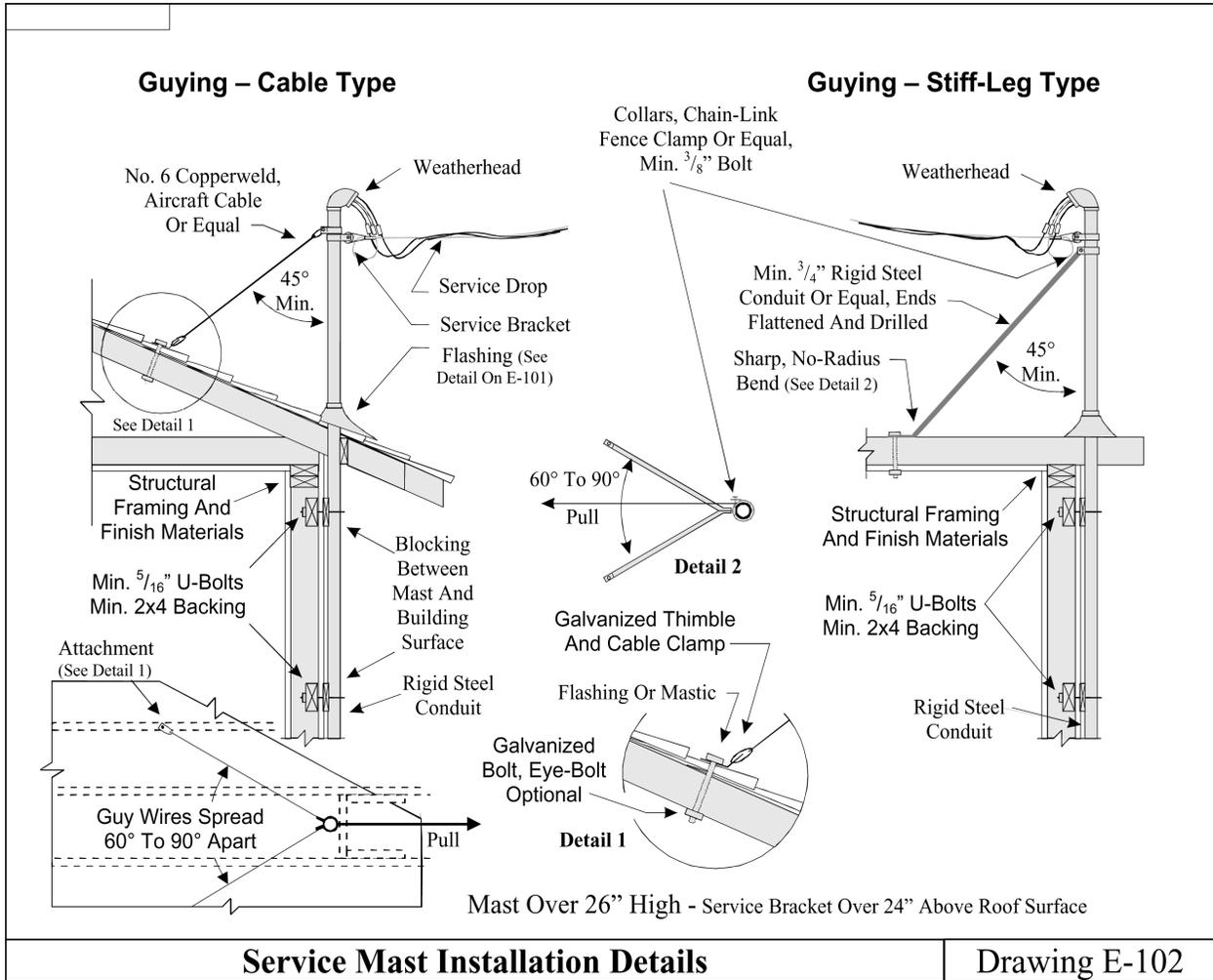
(a) All overhead drops for service, feeder, or branch circuits exceeding #1 AWG aluminum or #3 AWG copper must be rigid steel galvanized conduit no smaller than two inches.

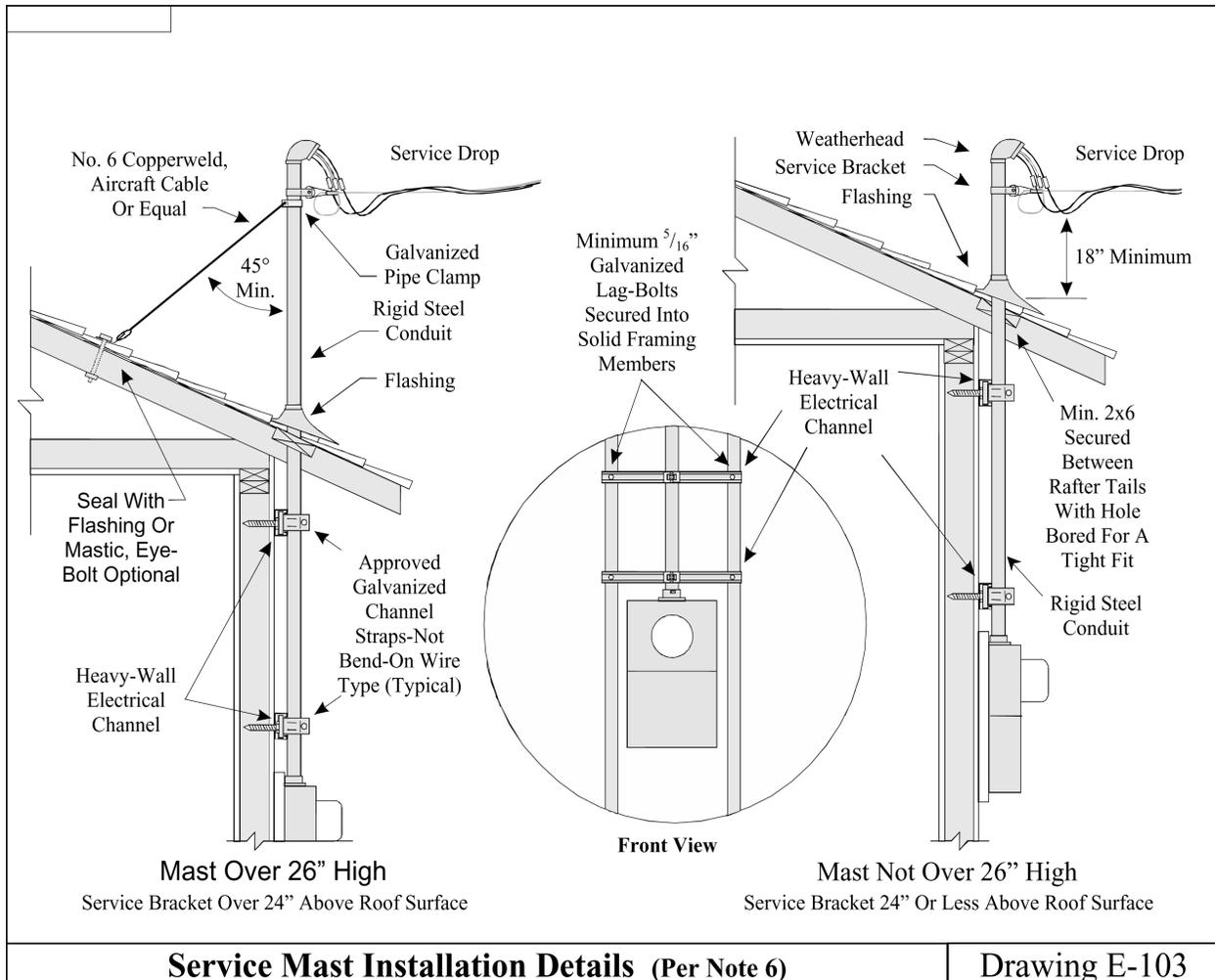
(b) All overhead drops for service, feeder or branch circuits not exceeding #1 AWG aluminum or #3 AWG copper must be rigid steel galvanized conduit no smaller than one and one-quarter inch. The installation must comply with

drawings E-101 and/or E-102, or must provide equivalent strength by other approved means. Masts for altered or relocated installations will be permitted to comply with drawing E-103.

(c) For the purposes of NEC 225.19 and 230.24, a residential patio cover, that is not over one story and not over twelve feet in height and is used only for recreation or outdoor living purposes and not as a carport, garage, storage room or habitable room as described in Appendix Chapter 1 in the IBC and Appendix Chapter H in the IRC, is not considered a roof. Overhead conductor spans must maintain a minimum 900 mm (36") clearance above these covers.







Service Mast Installation Details (Per Note 6)

Drawing E-103

Notes to drawings E-101, E-102, and E-103

- (1) An approved roof flashing must be installed on each mast where it passes through a roof. Plastic, nonhardening mastic must be placed between lead-type flashings and the conduit. Neoprene type flashings will also be permitted to be used.
- (2) Masts must be braced, secured, and supported in such a manner that no pressure from the attached conductors will be exerted on a roof flashing, meter base, or other enclosures.
- (3) Utilization of couplings for a mast is permitted only below the point the mast is braced, secured, or supported. There must be a minimum of two means of support above any couplings used. A properly installed cable or stiff leg type support qualifies as one of the two required means of support.
- (4) Except as otherwise required by the serving utility, service mast support guys must be installed if the service drop attaches to the mast more than twenty-four inches above the roof line or if the service drop is greater than one hundred feet in length from the pole or support. Masts for support of other than service drops must comply with this requirement as well.

- (5) Intermediate support masts must be installed in an approved manner with methods identical or equal to those required for service masts.
- (6) For altered services, where it is impractical to install U bolt mast supports due to interior walls remaining closed, it will be permissible to use other alternate mast support methods such as heavy gauge, galvanized, electrical channel material that is secured to two or more wooden studs with five-sixteenths inch diameter or larger galvanized lag bolts.
- (7) Conductors must extend at least eighteen inches from all mastheads to permit connection to the connecting overhead wiring.

040 Service conductors - Two-family and multiple-occupancy buildings.

- (5) Two-family and multiple-occupancy buildings. A second or additional service drop or lateral to a building having more than one occupancy will be permitted to be installed at a location separate from other service drops or laterals to the building provided that all the following conditions are complied with:

(a) Each service drop or lateral must be sized in accordance with the NEC for the calculated load to be served by the conductors;

(b) Each service drop or lateral must terminate in listed metering/service equipment;

(c) Each occupant must have access to the occupant's service disconnecting means;

(d) No more than six service disconnects may be supplied from a single transformer;

(e) All service drops or laterals supplying a building must originate at the same transformer or power supply;

(f) A permanent identification plate must be placed at each service disconnect location that identifies all other service disconnect locations in or on the building, the area or units served by each, the total number of service disconnecting means on the building/structure and the area or units served. If a structure consists of multiple buildings (i.e., by virtue of fire separation), all service disconnects in or on the entire structure must be labeled to identify all service disconnects in or on the structure; and

(g) A permanent identification plate must be placed at each feeder disconnecting means identifying the area or units served if the feeder disconnecting means is remote from the area or unit served.

042 Service conductor - Size and rating.

(6) If the service conductors have a lesser ampacity than the overcurrent protection, permitted by NEC 230.90 or NEC 310.15, or the equipment rating that they terminate in or on, an identification plate showing the ampacity of the conductors must be installed on the service equipment.

043 Wiring methods for 600 volts, nominal or less.

(7) The installation of service conductors not exceeding 600 volts, nominal, within a building or structure is limited to the following methods: Galvanized or aluminum rigid metal conduit; galvanized intermediate metal conduit; wireways; busways; auxiliary gutters; minimum schedule 40 rigid polyvinyl chloride conduit; cablebus; or mineral-insulated, metal-sheathed cable (type MI).

(8) Electrical metallic tubing must not be installed as the wiring method for service entrance conductors inside a building. Existing electrical metallic tubing, installed prior to October 1984, which is properly grounded and used for service entrance conductors may be permitted to remain if the conduit is installed in a nonaccessible location and is the proper size for the installed conductors.

(9) In addition to methods allowed in the NEC, the grounded service conductor is permitted to be identified with a yellow jacket or with one or more yellow stripes.

070 Service equipment - Disconnecting means.

(10) In addition to the requirements of NEC 230.70(A), service equipment, subpanels, and similar electrical equipment must be installed so that they are readily accessible and may not be installed in clothes closets, toilet rooms, or shower rooms. All indoor service equipment and subpanel equipment must have adequate working space and be adequately illuminated.

(11) The service disconnecting means must be installed at a readily accessible location in accordance with (a) or (b) of this subsection.

(a) Outside location: Service disconnecting means will be permitted on the building or structure or within sight and within fifteen feet of the building or structure served. The building disconnecting means may supply only one building/structure. The service disconnecting means must have an identification plate with one-half-inch high letters identifying:

(i) The building/structure served; and

(ii) Its function as the building/structure main service disconnect(s).

(b) Inside location: When the service disconnecting means is installed inside the building or structure, it must be located so that the service raceway extends no more than fifteen feet inside the building/structure.

095 Ground-fault protection of equipment.

(12) Equipment ground-fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. This test or a subsequent test must include all service voltage feeders unless the installer can demonstrate, in a manner acceptable to the department, that there are no grounded conductor connections to the feeder(s). A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be provided for the inspector's records at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

200 Wiring methods exceeding 600 volts.

(13) The installation of service conductors exceeding 600 volts, nominal, within a building or structure must be limited to the following methods: Galvanized rigid metal conduit, galvanized intermediate metal conduit, schedule 80 polyvinyl chloride conduit, metal-clad cable that is exposed for its entire length, cablebus, or busways.

(14) In addition to methods allowed in the NEC, the grounded service conductor is permitted to be identified with a yellow jacket or with one or more yellow stripes.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-240 Overcurrent protection.

024(F) Not located over steps.

If the overcurrent device is a part of a panelboard that is being repaired or replaced in an existing location, the installation is allowed to be made above the ((stairs)) steps.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-250 Wiring and protection—Grounding and bonding.

028 (D)(3) Separately derived system with more than one enclosure.

(1) NEC 250.28 (D)(3) is amended to read: Where a separately derived system supplies more than a single enclosure, the system bonding jumper for each enclosure shall be sized

in accordance with 250.28 (D)(1) based on the largest ungrounded feeder/tap conductor serving that enclosure, or a single system bonding jumper shall be installed at the source and sized in accordance with 250.28 (D)(1) based on the equivalent size of the largest supply conductor determined by the largest sum of the areas of the corresponding conductors of each set.

052 Grounding electrodes.

(2) ~~((If a concrete encased))~~ Except for mobile/manufactured homes, a concrete encased grounding electrode must be installed and used at each new building or structure that is built upon a permanent concrete foundation. If the concrete encased grounding electrode is not available for connections, a ground ring must be installed per NEC 250. The electrode must comply with NEC 250.52 (A)(3). Inspection of the electrode ((is installed)), ((inspection)) may be accomplished by the following methods:

(a) At the time of inspection of other work on the project, providing the concrete encased electrode is accessible for a visual inspection;

(b) At the time of the service inspection providing the installer has provided a method so the inspector can verify the continuity of the electrode conductor along its entire length (e.g., attaching a length of copper wire to one end of the electrode that reaches the location of the grounding electrode conductor that will enable the inspector to measure the resistance with a standard resistance tester). The concrete encased electrode does not have to be accessible for a visual inspection; or

(c) Other method when prior approval, on a job site basis, is given by the inspector.

If a special inspection trip is required to inspect a grounding electrode conductor, a trip fee will be charged for that inspection in addition to the normal permit fee.

056 Resistance of rod, pipe, and plate electrodes.

(3) For rod, pipe and plate electrodes, if a ground resistance test is not performed to ensure a resistance to ground of twenty-five ohms or less, two or more electrodes as specified in NEC 250.52 must be installed a minimum of six feet apart. A temporary construction service is not required to have more than one made electrode.

(4) For services only, when multiple buildings or structures are located adjacent, but structurally separate from each other, any installed rod, pipe, or plate electrodes used for those services must be installed so that each building's or structure's electrodes are not less than 1.8 m (6 ft) apart from the adjacent building's or structure's electrodes.

068 Accessibility.

(5) The termination point of a grounding electrode conductor tap to the grounding electrode conductor must be accessible unless the connection is made using an exothermic or irreversible compression connection.

090 Bonding.

(6) Metallic stubs or valves used in nonmetallic plumbing systems are not required to be bonded to the electrical system unless required by an electrical equipment manufacturer's instructions.

(7) Hot and cold water plumbing lines are not required to be bonded together if, at the time of inspection, the inspector

can determine the lines are mechanically and electrically joined by one or more metallic mixing valves.

094 Bonding for other systems.

(8) NEC 250.94 is not adopted.

(9) An accessible means external to enclosures for connecting intersystem bonding and grounding electrode conductors must be provided at the service equipment and at the disconnecting means for any additional buildings or structures by at least one of the following means:

(a) Exposed nonflexible metallic raceways;

(b) Exposed grounding electrode conductor or electrode;

(c) Approved means for the external connection of a copper or other corrosion-resistant bonding or grounding conductor to the grounded raceway or equipment.

104(B) Bonding - Other metal piping.

(10) For flexible metal gas piping, installed new or extended from an existing rigid metal piping system, either:

(a) Provide a copy of the manufacturer's bonding instructions to the inspector at the time of inspection and follow those instructions; or

(b) The bonding conductor for the gas system must:

(i) Be a minimum 6 AWG copper; and

(ii) Terminate at:

(A) An accessible location at the gas meter end of the gas piping system on either a solid iron gas pipe or a cast flexible gas piping fitting using a listed grounding connector; and

(B) Either the service equipment enclosure, service grounding electrode conductor or electrode, or neutral conductor bus in the service enclosure.

184 Solidly grounded neutral systems over 1 kV.

(11) In addition to the requirements of NEC 250.184(A), the following applies for:

(a) Existing installations.

(i) The use of a concentric shield will be allowed for use as a neutral conductor for extension, replacement, or repair, if all of the following are complied with:

(A) The existing system uses the concentric shield as a neutral conductor;

(B) Each individual conductor contains a separate concentric shield sized to no less than thirty-three and one-half percent of the ampacity of the phase conductor for three-phase systems or one hundred percent of the ampacity of the phase conductor for single-phase systems;

(C) The new or replacement cable's concentric shield is enclosed inside an outer insulating jacket; and

(D) Existing cable (i.e., existing cable installed directly in the circuit between the work and the circuit's overcurrent device) successfully passes the following tests:

- A cable maintenance high potential dielectric test. The test must be performed in accordance with the cable manufacturer's instruction or the ~~((2004))~~ 2011 NETA maintenance test specifications; and

- A resistance test of the cable shield. Resistance must be based on the type, size, and length of the conductor used as the cable shield using the conductor properties described in NEC Table 8 Conductor Properties.

An electrical engineer must provide a specific certification to the electrical plan review supervisor in writing that the test results of the maintenance high potential dielectric test and the resistance test have been reviewed by the electrical

engineer and that the cable shield is appropriate for the installation. The electrical engineer must stamp the certification document with the engineer's stamp and signature. The document may be in the form of a letter or electrical plans.

Testing results are valid for a period of seven years from the date of testing. Cable will not be required to be tested at a shorter interval.

(ii) A concentric shield used as a neutral conductor in a multigrounded system fulfills the requirements of an equipment grounding conductor.

(b) New installations.

(i) New installations do not include extensions of existing circuits.

(ii) The use of the concentric shield will not be allowed for use as a neutral conductor for new installations. A listed separate neutral conductor meeting the requirements of NEC 250.184(A) must be installed.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

**WAC 296-46B-300 Wiring methods and materials—
Wiring methods.**

~~((001 Wiring methods.))~~

(1) Cables and raceways for ~~((telecommunications.))~~ power limited, NEC Class 2 and Class 3 conductors must be installed in compliance with Chapter 3 NEC unless other methods are specifically ~~((allowed or))~~ required elsewhere in the NEC, chapter 19.28 RCW, or this chapter.

005 Underground installations.

(2) Induction loops.

See WAC 296-46B-010(17) for induction detection loops that are made in a public roadway and regulated by a governmental agency.

Other induction loops must comply with the following requirements:

(a) General:

(i) A preformed direct burial induction loop is designed to be installed within the road surface base (e.g., concrete or asphalt) or below the road surface of a road with an unpaved surface (e.g., gravel or brick pavers);

(ii) A saw-cut induction detection loop is designed to be installed into a groove saw-cut into an existing paved road surface (e.g., concrete or asphalt);

(iii) The loop system includes the loop and the lead-in conductor;

(iv) The loop system must be:

(A) Tested to assure that at 500 volts DC, the resistance between the conductor and ground equals or exceeds 50 megohms; and

(B) Without splice; or

(C) If spliced, the splice must be soldered and appropriately insulated;

(v) The lead-in conductor must comply with the following:

(A) Must be stranded and have a lay (i.e., twist) of two turns per foot; and

(B) If installed in an electrical raceway;

• Are not required to be listed or suitable for wet locations; and

• Must have a burial cover of at least 6"; or

(C) If direct buried;

• Must be listed for the use; and

• Must have a burial cover of at least 18".

(b) Preformed direct burial induction detection loops must conform with the following:

(i) The loop conductor must be rated for direct burial and be a minimum of No. 16 AWG;

(ii) The loop design must not allow movement of the loop conductor within the outer jacket. The outer jacket containing the loop conductor is not required to be listed;

(iii) The loop yoke casing (i.e., the location where the lead-in conductor is connected to the loop):

(A) Includes any device used to house the "loop to lead-in splice" or to otherwise couple the loop with the lead-in electrical raceway;

(B) Is not required to be listed; and

(C) Must have a coupler that will create a waterproof bond with the electrical raceway, containing the lead-in conductor, or a direct buried lead-in conductor.

(c) Saw-cut induction detection loops:

(i) The loop conductor must be cross-linked polyethylene or EPR Type USE insulation and be a minimum of No. 18 AWG stranded;

(ii) The saw-cut groove must not cut into rebar installed within the roadway.

011 Support of raceways, cables, or boxes in suspended ceilings.

(3) NEC power limited, Class 2, and Class 3 cables must be secured in compliance with NEC 334.30 and must be secured to boxes in compliance with NEC 314.17.

(4) Telecommunications cables must be secured in a manner that will not cause damage to the cables and at intervals not exceeding five feet. Cables are considered adequately supported when run through holes in building structural elements or other supporting elements. Telecommunications cables may be fished into inaccessible hollow spaces of finished buildings. Clamps or fittings are not required where telecommunications cables enter boxes.

(5) Optical fiber cables must be secured in a manner that will not cause damage to the cables and at intervals not exceeding five feet. Cables are considered adequately supported when run through holes in building structural elements or other supporting elements. Optical fiber cables may be fished into inaccessible hollow spaces of finished buildings. Supports must allow a bending radius that will not cause damage to the cables.

(6) Where not restricted by the building code official or Article 300 NEC, the wires required in NEC 300.11(A) may support raceways, cables, or boxes under the following conditions:

(a) Raceways and/or cables are not larger than three-quarter-inch trade size;

(b) No more than two raceways or cables are supported by a support wire. The two-cable limitation does not apply to telecommunications cables, Class 2 cables, or Class 3 cables on support wires installed exclusively for such cables. The support wire must be adequate to carry the cable(s) weight and all attached cables must be secured with approved fittings; or

(c) Raceways and cables are secured to the support wires by fittings designed and manufactured for the purpose.

In addition to (a), (b), and (c) of this subsection, the following conditions must be complied with:

(d) The support wires are minimum #12 AWG and are securely fastened to the structural ceiling and to the ceiling grid system; and

(e) The raceways or cables serve equipment that is located within the ceiling cavity or is mounted on or supported by the ceiling grid system. Telecommunications cables, Class 2 cables, or Class 3 cables supported as required by this section, may pass through ceiling cavities without serving equipment mounted on or supported by the ceiling grid system.

017 Conductors in raceway.

(7) Cables will be permitted in all raceway systems if:

(a) The cable is appropriate for the environment; and

(b) The percentage fill does not exceed that allowed in NEC Chapter 9, Table 1.

NEW SECTION

WAC 296-46B-336 Power and control tray cable—Type TC.

010 Uses permitted.

In addition to the uses allowed in NEC 336.10, Type TC cable may be used in any location allowed for nonmetallic-sheathed cable in NEC 334 if all the installation requirements in NEC 336 and 334 and WAC 296-46B-334 are met.

NEW SECTION

WAC 296-46B-406 Receptacles, cord connectors, and attachment plugs.

011 Tamper resistant receptacles in dwelling units.

NEC 406.11 is amended to read: In all areas specified in 210.52, all nonlocking-type 125-volt, 15- and 20-ampere receptacles must be listed tamper-resistant receptacles.

Exception: Receptacles in the following locations will not be required to be tamper-resistant.

(1) Receptacles located more than five and one-half feet above the finished floor;

(2) Receptacles that are a part of a luminaire or appliance;

(3) A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord and plug connected in accordance with 400.7 (A)(6), (A)(7), or (A)(8);

(4) Nongrounding receptacles used for replacements as permitted in 406.3 (d)(2)(a); or

(5) Receptacles located above a countertop where required by NEC 210.52(C).

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-410 Equipment for general use—Luminaires.

010 Luminaires.

(1) All luminaires within an enclosed shower area or within five feet of the waterline of a bathtub must be enclosed, unless specifically listed for such use; these luminaires, with exposed metal parts that are grounded, must be ground fault circuit interrupter protected.

~~((030))~~ **062 Flexible cord connection of electric discharge luminaires.**

(2) A ground-type attachment plug cap and receptacle connection at the source junction box is not required when the flexible cord complies with NEC ~~((410.30))~~ 410.62 and the following:

(a) Connection to a source junction box must utilize an approved cable connector or clamp;

(b) The maximum length of the cord for a suspended pendant drop from a permanently installed junction box to a suitable tension take-up device above the pendant luminaire must not exceed six feet;

(c) The flexible cord must be supported at each end with an approved cord grip or strain relief connector fitting/device that will eliminate all stress on the conductor connections;

(d) The flexible cord must be a minimum #14 AWG copper;

(e) The flexible cord ampacity must be determined in NEC Table 400.5(A) column A;

(f) The flexible cord must be hard or extra hard usage; and

(g) A vertical flexible cord supplying electric discharge luminaires must be secured to the luminaire support as per NEC 334.30(A).

042 Exposed luminaire (fixture) parts.

(3) Replacement luminaires that are directly wired or attached to boxes supplied by wiring methods that do not provide a ready means for grounding and that have exposed conductive parts will be permitted only where the luminaires are provided with ground-fault circuit-interrupter protection and marked "no equipment ground."

NEW SECTION

WAC 296-46B-424 Fixed electric space heating equipment.

019 Disconnecting means.

In one- and two-family dwelling units, a disconnecting means is required for the indoor units(s) of a split system HVAC/R system, unless the outside unit's disconnecting means is lockable, disconnects the indoor unit and an indoor disconnecting means is not required by the manufacturer.

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-445 Wind driven generator equipment. This equipment includes alternators or generators that produce electrical current through the conversion of wind energy into electrical energy. Wind driven generation equipment must demonstrate conformance to applicable safety standards recognized by the department.

Installation.

(1) A wind driven generator system design review must be ~~((submitted))~~ provided at the time of the first inspection. ~~((The design review must be available to the inspector on the~~

job site. ~~Permit holders must submit a copy of the wind driven generator equipment manufacturer's installation information and a legible one-line diagram of the wind driven generator design and calculations used to determine voltage and current within the generation system to the electrical inspector. This diagram must show the wind driven generator equipment, devices, overcurrent protection, conductor sizing, grounding, ground fault protection if required, and any system interconnection points.~~)

(2) For utility interactive systems, any person making interconnections between the generator system and the utility distribution network must consult the serving utility and is required to meet all additional utility standards.

(3) All wind driven generator equipment and disconnecting means must be permanently identified as to their purpose,

maximum voltages and type of current within the system with an identification plate.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-450 Equipment for general use—Transformers and transformer vaults.

027 Flammable-liquid or oil-filled transformers installed outdoors.

(1) Flammable-liquid or oil-filled transformers installed outdoors must meet the following requirements:

(a) A transformer installed adjacent to a building/structure with any combustible surface may be located only in the shaded "Approved Transformer Area" shown in Figure 450-1;

"Approved Transformer Area" shown in Figure 450-1;

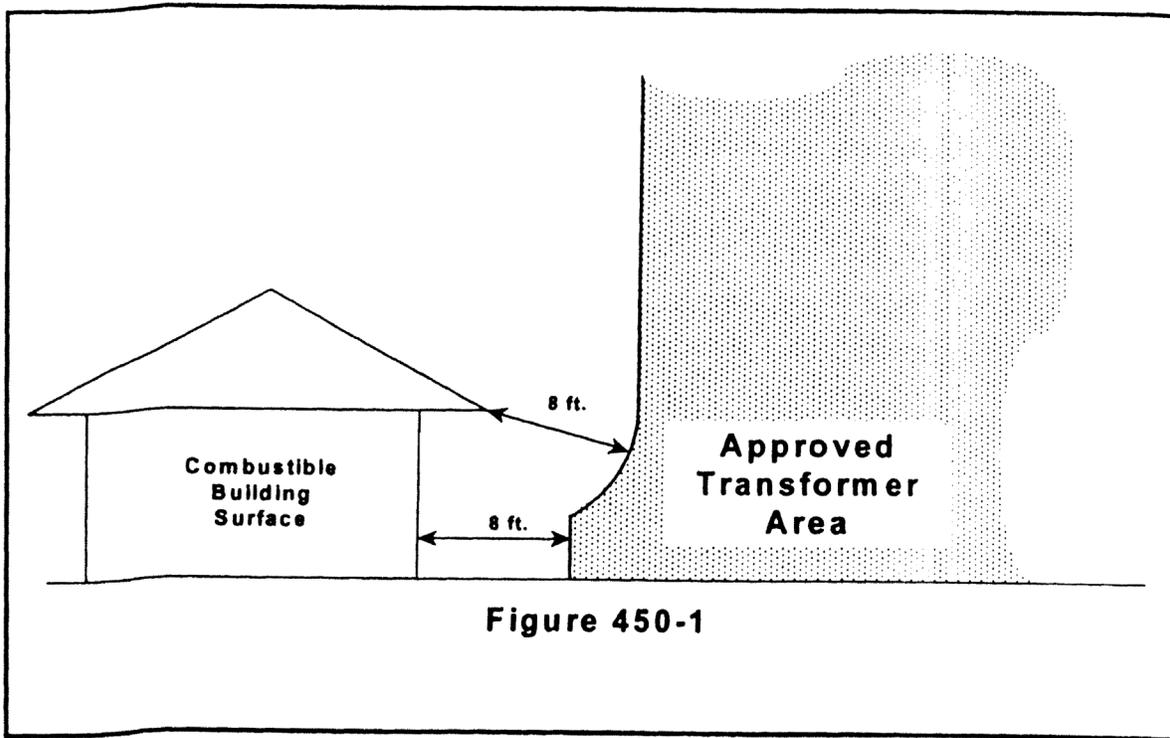


Figure 450-1

(b) A transformer installed adjacent to a building/structure with no combustible surface(s) may be located only in the shaded "Approved Transformer Area" shown in Figure 450-2;

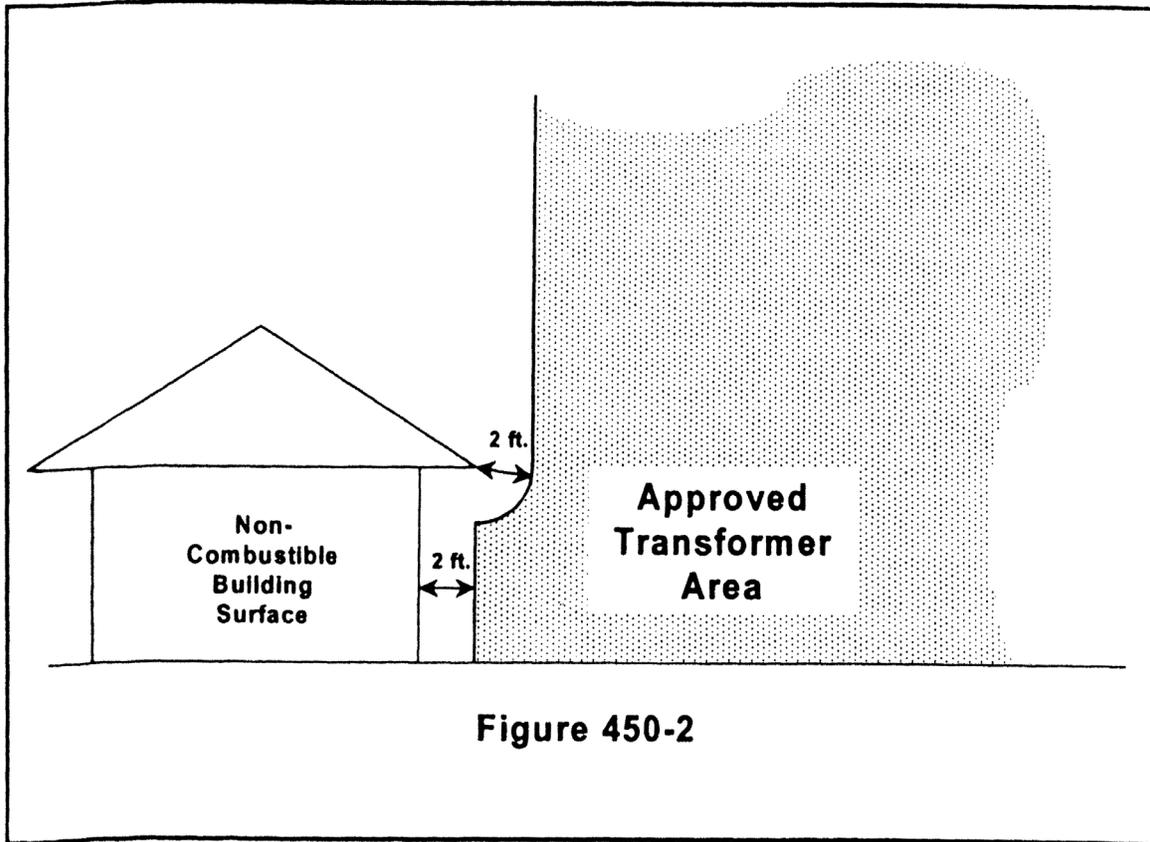


Figure 450-2

(c) In an area in which a transformer is to be installed next to a ~~((noninhabited))~~ nonhabitable structure, the transformer may be no closer than two feet to the building/structure and must be outside a line extended vertically from the ends of the eaves or rooflines;

(d) A building/structure may have no doors, windows, stairways, or other openings closer than eight feet to the transformer;

(e) The finished grade at the location of the transformer must be such that any oil leaking from the transformer will flow away from the building/structure and will not pool; and

(f) If transformers are installed in areas subject to traffic other than pedestrian traffic, they must be provided with adequate guarding.

(2) Enclosures for total underground flammable-liquid or oil-filled transformers must not be located within eight feet of a doorway, operable window, stairways or fire escape. Adequate space must be maintained above the enclosure so that a boom may be used to lift the transformer from the enclosure.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-513 Special occupancies—Aircraft ~~((hangers))~~ hangars.

001 Scope.

The scope for NEC 513 applies only when the property containing the building is classified or zoned as an aircraft ~~((hanger))~~ hangar by the authority having jurisdiction.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-550 Special occupancies—Mobile homes, manufactured homes and mobile home parks.

001 Mobile/manufactured homes - Inspection.

(1) All alterations to the mobile/manufactured home electrical system must be permitted and inspected ~~((by the factory assembled structures section of the department. Electrical wiring in structures that are attached to the mobile/manufactured home and for which the source of power is from the mobile/manufactured home is inspected by the factory assembled structures section of the department))~~.

(a) Any circuit or feeder that is fed from the pedestal or panel from an outbuilding feeding the mobile/manufactured home requires a permit from the electrical section.

(b) Any circuit or feeder that originates from the mobile/manufactured home's (i.e., red factory assembled structures label) panel and feeds an addition or equipment that is attached (e.g., garage, heat pump, or air conditioning unit) requires an FAS alteration permit.

(c) Any circuit or feeder that originates in the mobile/manufactured home panel and feeds an unattached structure or equipment (e.g., detached garage, hot tub, pool, well, sep-

tic system, yard lighting, or generation equipment, etc.) requires two inspections. An FAS permit is required for the circuit or feeder from the panel and must terminate in a J-box located under the home's exterior wall near the rim joist. A second permit is required from the electrical section for electrical work from the J-box to the equipment or structure.

032 Mobile/manufactured homes - Service.

(2) If an electrical service is installed on the mobile/manufactured home:

(a) It must be installed only by the manufacturer, at the manufacturing plant. The manufacturer must complete the service except for service connections, meter, and grounding electrode conductor; and

(b) The owner or an electrical contractor must complete the service at the site.

033 Mobile/manufactured homes - Feeder.

(3) When the mobile or manufactured home is supplied with power using a permanent wiring method, the equipment grounding conductor will be permitted to be bare. Bare conductors used underground must be copper. For the purposes of this section, portable cord is not considered a permanent wiring method.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-555 Special occupancies—Marinas and boatyards. (1) For the purposes of NEC 555.1, the scope of work includes private, noncommercial docking facilities.

(2) For the purposes of NEC 555.5, transformer terminations must be located a minimum of twelve inches above the deck of a dock (datum plane requirements do not apply for this section).

(3) For the purposes of NEC 555.7, adjacent means within sight.

(4) For the purposes of NEC 555.9, all electrical connections must be installed a minimum of twelve inches above the deck of a pier unless the connections are approved for wet locations (datum plane requirements do not apply for this section).

(5) For the purposes of NEC 555.10, all enclosures must be corrosion resistant. All gasketed enclosures must be arranged with a weep hole to discharge condensation.

(6) For the purposes of NEC 555.11, gasketed enclosures are only required for wet locations.

(7) For the purposes of NEC 555.13, the following wiring methods are allowed:

(a) All wiring installed in a damp or wet location must be suitable for wet locations.

(b) Extra-hard usage portable power cables rated not less than 75°C, 600 volts, listed for wet locations and sunlight resistance and having an outer jacket rated for the environment are permitted. Portable power cables are permitted as a permanent wiring method under or within docks and piers or where provided with physical protection. The requirements of NEC 555.13 (B)(4)(b) do not apply.

(c) Overhead wiring must be installed at the perimeter of areas where boats are moored, stored, moved, or serviced to avoid possible contact with masts and other parts of boats.

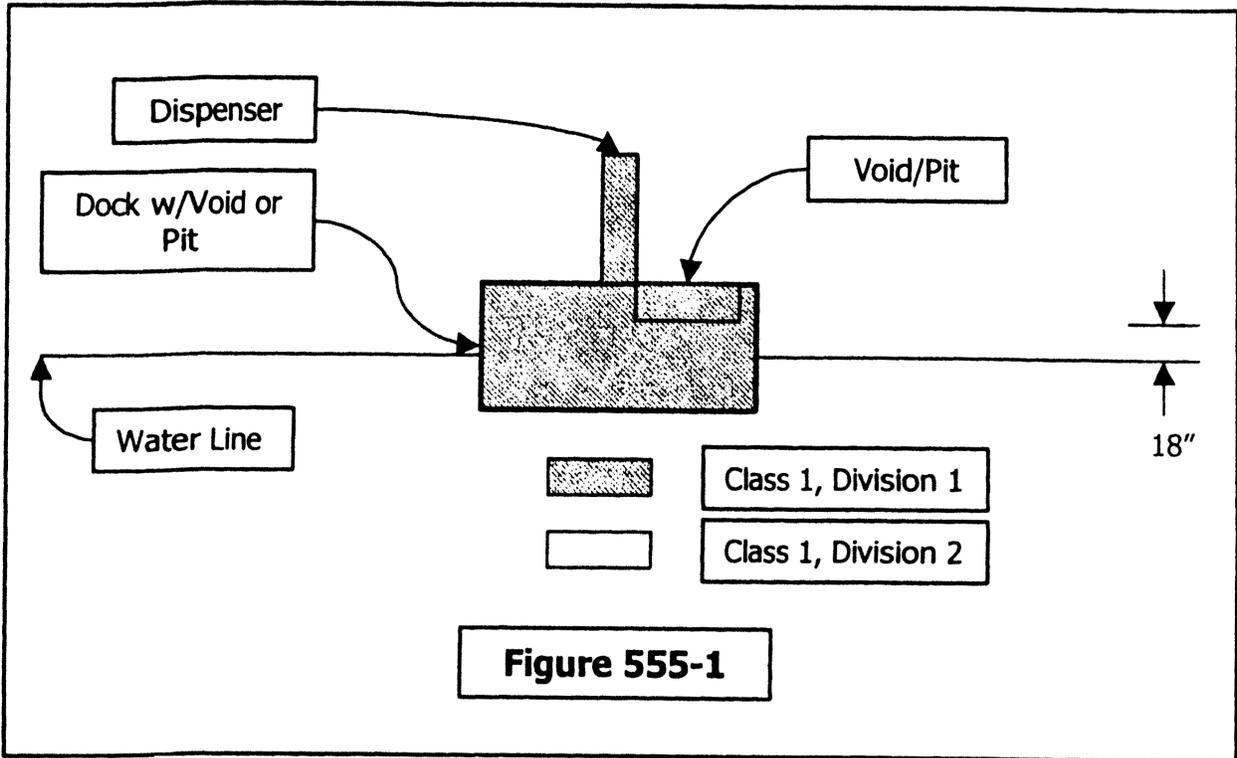
(d) For the purposes of NEC 555.13 (B)(5), the wiring methods of Chapter 3 NEC will be permitted.

(8) For the purposes of NEC 555.19, receptacles must be mounted not less than twelve inches above the deck surface of the pier or dock (datum plane requirements do not apply for this section). Shore power receptacles that provide shore power for boats must be rated not less than 20 amperes and must be single outlet type and must be of the locking and grounding type or pin and sleeve type.

(9) For the purposes of NEC 555.21 (B)(1), delete exception No. 1 and No. 2 and replace with:

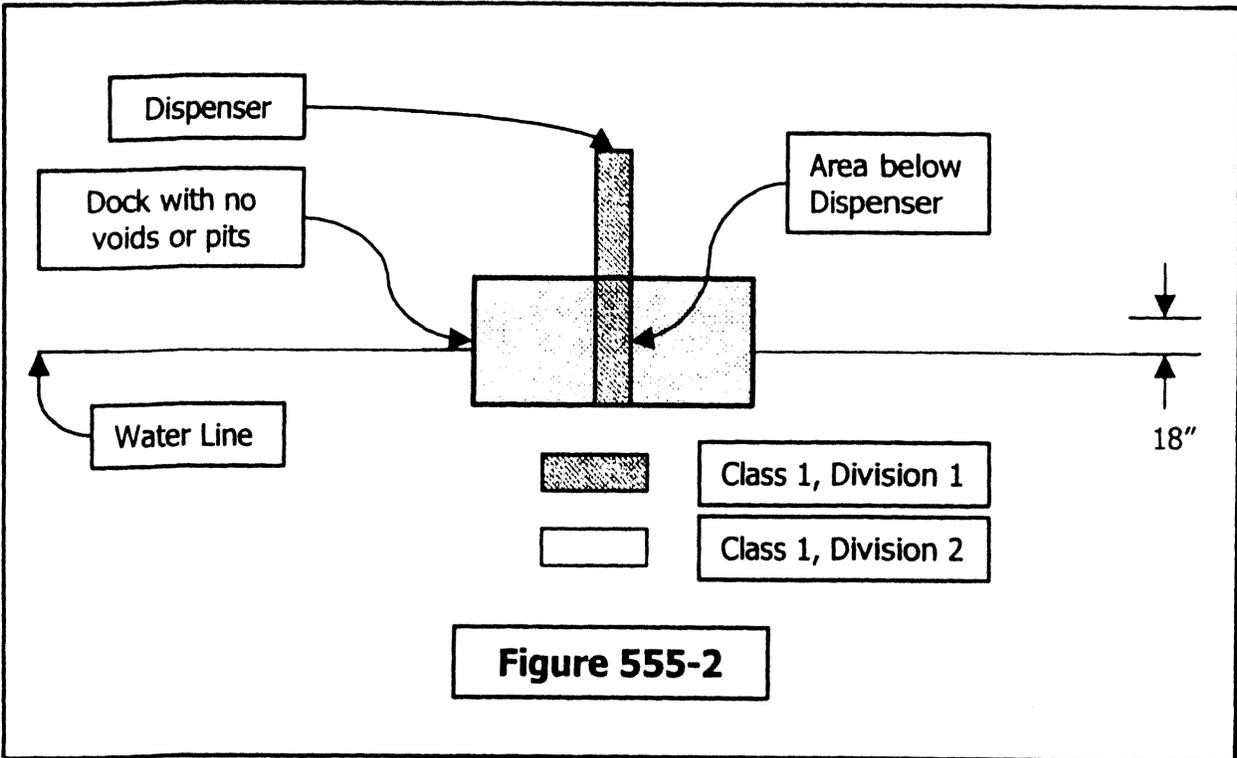
Dock, pier, or wharf sections that do not support fuel dispensers and may abut a section(s) that supports a fuel dispenser(s) are permitted to be unclassified where documented air space between the sections is provided and where flammable liquids or vapors cannot travel to these sections. See NEC 500.4(A) for documentation requirements.

((STRICKEN GRAPHIC))



STRICKEN GRAPHIC))

((STRICKEN GRAPHIC))



STRICKEN GRAPHIC))

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-600 Special equipment—Electric signs and outline lighting.

001 Electrical signs - General.

(1) All electrical signs within the scope of UL Standard 48, the electrical sign standard, must be listed. All electrical signs outside the scope of UL Standard 48 will be inspected for compliance with the NEC.

(2) Luminaires in outdoor awnings must be suitable for wet locations and be connected by a wiring method suitable for wet locations.

(3) Fluorescent luminaires must be located at least six inches from the awning fabric. Incandescent lamps or luminaires must be located at least eighteen inches from the awning fabric. A disconnecting means must be installed per Article 600 NEC.

(4) Listed awning signs must be installed in compliance with the manufacturer's instructions and the NEC.

004 Markings.

(5) When neon channel signs are retrofitted from neon to an LED light source, a licensed electrical contractor may make the retrofit with the channel(s) in place so long as all the retrofit components are listed and the manufacturer's instructions for making the retrofit are available for the inspector's use at the time of the inspection and physical access is provided to allow the inspector access to all components of the retrofit. A new listing mark must be applied to the sign by the electrical contractor or a field evaluation label must be applied by an approved electrical testing laboratory.

007 Grounding and bonding.

(6) Remote metal parts of a section sign or outline lighting system only supplied by a remote Class 2 power supply that is listed or is a recognized component in a listed section sign or outline lighting is not required to be bonded to an equipment grounding conductor.

010 Portable or mobile outdoor electrical signs.

~~((5))~~ (7) A weatherproof receptacle outlet that is weatherproof with the supply cord connected must be installed within six feet of each electrical sign.

~~((6))~~ (8) Extension cords are not permitted to supply portable outdoor signs.

~~((7))~~ (9) All portable outdoor electrical signs must be listed or field evaluated by a laboratory accredited by the department.

030 Neon tubing.

~~((8))~~ (10) NEC 600, Part II, Field-Installed Skeleton Tubing, will apply to all neon tubing and neon circuit conductors.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-680 Special equipment—Swimming pools, fountains and similar installations.

001 General.

(1) Package spa or hot tubs. Electrical heating, pumping, filtering, and/or control equipment installed within five feet of a spa or hot tub must be listed or field evaluated as a package with the spa or hot tub.

(2) A factory assembled skid pack of electrical heating, pumping, filtering, and/or control equipment (~~((skid pack))~~) must be installed more than five feet from a spa or hot tub and (~~((shall))~~) must be listed as a package unit.

(3) The maintenance disconnect and field installed, listed electrical equipment for a hot tub, spa, or swim spa must be located at least five feet from the hot tub, spa or swim spa. Field installed listed equipment must meet the following additional requirements:

(a) The heater is listed as a "spa heater or swimming pool heater";

(b) The pump is listed as a "spa pump" or "swimming pool/spa pump" (the pump may be combined with a filter assembly); and

(c) Other listed equipment such as panelboards, conduit, and wire are suitable for the environment and comply with the applicable codes.

(4) Field installed, listed electrical equipment for a swimming pool must be located at least five feet from the swimming pool. Field installed listed equipment must meet the following additional requirements:

(a) The heater must be listed as a "swimming pool heater or a spa heater";

(b) The pump must be listed as a "swimming pool pump" or "spa pump" or "swimming pool/spa pump"; and

(c) Other equipment such as panelboards, conduit, and wire must be suitable for the environment and comply with the applicable codes.

The five-foot separation may be reduced by the installation of a permanent barrier, such as a solid wall, fixed glass windows or doors, etc. The five-foot separation will be determined by the shortest path or route that a cord can travel from the spa, hot tub, swim spa, or swimming pool to an object.

(5) The field assembly or installation of "recognized components" will not be permitted.

(6) Hydromassage bathtubs must be listed as a unit and bear a listing mark which reads "hydromassage bathtub."

(7) Manufacturers' instructions must be followed as part of the listing requirements.

(8) Electrical components which have failed and require replacement must be replaced with identical products unless the replacement part is no longer available; in which case, a like-in-kind product may be substituted provided the mechanical and grounding integrity of the equipment is maintained.

(9) Cut-away-type display models may not be sold for other than display purposes and are not expected to bear a listing mark.

025 Feeders.

(10) NEC 680.25(A) is amended to read: A feeder between the service equipment and the remote panelboard is permitted to run in flexible metal conduit, an approved cable assembly that includes an equipment grounding conductor within its outer sheath (the equipment grounding conductor must comply with NEC 250.24 (A)(5)), rigid metal conduit, intermediate metal conduit, liquidtight flexible nonmetallic conduit, rigid polyvinyl chloride conduit, reinforced thermosetting resin conduit, electrical metallic tubing (when installed on or within a building or crawl space), and electri-

cal nonmetallic tubing (when installed within a building or crawl space). Aluminum conduit is not permitted.

040 Spas and hot tubs.

(11) NEC 680.42(C) will apply for interior and exterior wiring to outdoor installations of spas and hot tubs.

070 Hydromassage bathtubs.

(12) For hydromassage bathtubs, the ground fault circuit interrupter device must be identified as to use and not located in a building or tub cavity, crawlspace, or attic.

(13) For hydromassage bathtubs, all electrical equipment installed to support the bathtub (e.g., disconnecting means, motor, etc.) must be accessible at the same grade level as the tub or from a landing on the exterior of the building without the use of a ladder or other access device.

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-690 Solar photovoltaic systems.

002 Definitions.

(1) ~~((Photovoltaic system. The photovoltaic system may conduct alternating current, direct current, or both and will comprise all interconnected circuits to the point of connection with the building distribution circuits or utility service conductors.))~~ Building integrated means: Photovoltaic cells, modules, panels, or arrays that are integrated into the outer surface or structure of a building and serve as the outer protective surface of that building, such as the roof, skylights, windows, or facades.

004 Installation.

(2) Support structure~~((s))~~ or foundation~~((, and tracker))~~. For the purposes of this section, those portions of the ~~((array or tracker))~~ structure support or foundation that are exclusively mechanical and are ~~((built specifically for the purpose of physically supporting the modules or panels))~~ not part of a bonding or grounding path will not be considered part of the photovoltaic system as defined by this ~~((article))~~ section. Such structural support or foundation may be done by the owner, registered general contractor, or licensed electrical contractor without electrical permit or inspection.

~~((004 Installation.))~~

(3) A photovoltaic system design review must be ~~((submitted))~~ provided at the time of the first inspection. ~~((The design review must be available to the inspector on the job site. Permit holders must submit, to the electrical authority having jurisdiction, copies of the photovoltaic equipment manufacturer's installation information, accompanied by a legible one-line diagram of the photovoltaic design and calculations used to determine voltage and current within the photovoltaic system. This diagram must show the photovoltaic equipment, devices, overcurrent protection, conductor sizing, grounding, ground fault protection if required, and any system interconnection points.))~~

(4) For utility interactive systems, persons making interconnections between solar photovoltaic system and the utility distribution network must consult the serving utility and are required to meet all additional utility standards.

(5) The entity placing a building integrated cell, module, panel, or array is not subject to the requirements for electrical inspection, licensing, or certification so long as the work is

limited to the placement and securing of the device and an electrical work permit has been previously obtained for the electrical work related to the equipment by an entity authorized to do that electrical work.

(6) All electrical work, including wiring installation, terminations, etc., necessary to complete the electrical installations must be completed by the entity authorized to do the electrical work (i.e., owner or appropriate electrical contractor).

007 Maximum voltage.

~~((5))~~ (7) The open-circuit voltage temperature coefficients supplied in the instructions of listed photovoltaic modules will be used to determine the maximum direct current photovoltaic system voltage. Otherwise the voltage will be calculated using Table 690.7 of the NEC. For the purposes of this calculation, a temperature correction factor of 1.25 will be used unless another factor can be justified and is approved by the authority having jurisdiction.

053 Direct-current photovoltaic power source.

~~((6))~~ (8) All photovoltaic equipment and disconnecting means must be permanently identified as to their purpose, maximum voltages, and type of current within the system with an identification plate. All photovoltaic circuits must be identified at each overcurrent protection device(s) and panel directory(ies).

~~((7))~~ (9) Required "WARNING" labels as specified by NEC 690 are required to be an identification plate on or immediately adjacent to the pertinent equipment.

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

WAC 296-46B-800 Communications systems—Communications circuits.

General.

Chapters 1 through 7, NEC, supplement and modify the requirements of chapter 8, NEC. If there are specific requirements or exceptions described in chapter 8, NEC, that are different from those in chapters 1 through 7, NEC, chapter 8 will prevail.

001 Installation.

(1) All telecommunications installations on an end-user's property, beyond the end-user's telecommunications network demarcation point, made by a telecommunications service provider, both inside and outside of a building or structure, must conform to all licensing, certification, installation, permitting, and inspection requirements described in chapter 19.28 RCW and this chapter.

(2) Telecommunications service providers including its subcontractors and agents must install and maintain points of demarcation in conformance with Code of Federal Regulations (C.F.R.), Title 47, Chapter 1, Part 68, Subpart B, Sec. 68.105 and may not place a point of demarcation further than twelve inches within an end-user's occupied space.

(3) The telecommunications service provider must identify the telecommunications network demarcation point(s) with an identification plate or label having:

- (a) The provider's name;
- (b) Customer/end-user's name; and
- (c) If a CWSTP is used, the option type used.

(4) The C.F.R. prescribes that telecommunications service providers must choose either a MPOE (minimum point of entry) or CWSTP (cable wire service termination policy) which regulates where demarcations are placed within a multi-tenant environment.

(5) A telecommunications service provider, including its subcontractors and agents provisioning service for a second provider who is not the end-user of the service, must place the point of demarcation no further than twelve inches from the nearest POP (point of presence), of the serving provider, to the eventual end-user.

(6) Telecommunications service providers must designate each building that they provide services to with labeling at the terminating point(s) of their facilities indicating:

- (a) Whether the building is under a MPOE policy; or
- (b) Which option of a CWSTP is in effect.

(7) The CWSTP options for demarcation placement are as follows:

(a) All telecommunications service provider facilities will terminate at one location, mutually agreed upon by the provider and the building owner or designee, upon entry into the building, normally at the lowest common serving point. All demarcations will be placed no more than twelve inches from this point. The building owner and/or tenants will provide, manage and maintain building wire and cable placed beyond this demarcation point location.

(b) The telecommunications service provider's facilities will terminate at common locations, mutually agreed upon by the provider and the building owner or designee, throughout the building (terminal rooms, utility closets, etc.). The telecommunications service provider will provide, manage and maintain the building cable and registration jacks that denote the demarcation points. The demarcation points will be placed at these locations and will be accessible to end-users at these locations. This (b) is not an option for single tenant buildings.

(c) The telecommunications service provider will terminate facilities and place demarcations at locations, mutually agreed upon by the provider and the building owner or designee, within the individually occupied units, within twelve inches or a similarly reasonable distance of cable/wire entry. The provider will provide, manage and maintain the building cable, network terminating wire and registration jacks that denote the demarcation point. This (c) is not an option for single tenant buildings.

(d) All telecommunications service provider facilities and demarcations will terminate at one location on the property, mutually agreed upon by the provider and the building owner or designee. The building owner and/or tenants will provide, manage and maintain building wire and cable placed beyond the demarcation point location.

(8) The telecommunications installer must confer with the telecommunications provider when determining the point of demarcation.

002 Definitions.

(9) "**CWSTP (cable, wire and service termination policy)**" is the policy of the Federal Communications Commission (FCC) and the Washington utilities and transportation commission (WUTC) prescribed by tariff that governs negotiations between building owners and telecommunica-

tions service providers regarding the configuration of POP(s) and demarcation point(s) in multitenant buildings when a MPOE policy is not elected by the telecommunications service provider.

(10) "**MPOE (minimum point of entry)**" is a building wiring policy of the FCC and WUTC for multitenant environment locations that can be elected by telecommunications service providers. It prescribes that the telecommunications service provider will provide a single POP for access to its network and is located either at the closest practicable point to where a telecommunications service provider's facilities (fiber, coax, or copper) cross a property line or at the closest practicable point to where the wiring enters a multiunit building or buildings. All demarcations provided for customers and end-users by the provider will be placed within twelve inches of that POP.

(11) "**POP (point-of-presence)**," also called a "**POT (point-of-termination)**," is a designated point at or near a customer premise at which a telecommunications service provider's facilities for the provision of access service ends. This can be a fiber, coax, or copper connection point. Depending on the telecommunications service provider's CWSTP with the individual building owner, demarcations may be established at the POP or at other designated locations. When the customer of a telecommunications service provider is another carrier, the demarcation will be at the closest POP to the end-user. A telecommunications service provider may have multiple POPs within a multiple tenant environment.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-900 Electrical plan review. Classification or definition of occupancies.

Classification or definition of occupancies.

(1) Occupancies are classified and defined as follows:

(a) Educational facility refers to a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

(b) Institutional facility refers to a building or portion of a building used primarily for detention or correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

(c) Health or personal care facility. Health or personal care facility refers to buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental, or chiroprac-

tic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated.

(i) "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, abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis.

(ii) "Nursing home," "nursing home unit" or "long-term care unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities, require skilled nursing care and related medical services but are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.

(iii) "Boarding home" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing board and domiciliary care to seven or more aged persons not related by blood or marriage to the operator. It must not include any home, institution, or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution, or section thereof.

(iv) "Private alcoholism hospital" means an institution, facility, building, or equivalent designed, organized, maintained, or operated to provide diagnosis, treatment, and care of individuals demonstrating signs or symptoms of alcoholism, including the complications of associated substance use and other medical diseases that can be appropriately treated and cared for in the facility and providing accommodations, medical services, or other necessary services over a continuous period of twenty-four hours or more for two or more individuals unrelated to the operator, provided that this chapter will not apply to any facility, agency, or other entity which is owned and operated by a public or governmental body.

(v) (~~"Alcoholism treatment facility" means a private place or establishment, other than a licensed hospital, operated primarily for the treatment of alcoholism.~~)

(~~vi~~) "Private psychiatric hospital" means a privately owned and operated establishment or institution which: Provides accommodations and services over a continuous period of twenty-four hours or more, and is expressly and exclusively for observing, diagnosing, or caring for two or more individuals with signs or symptoms of mental illness who are not related to the licensee.

(~~vii~~) (vi) "Maternity home" means any home, place, hospital, or institution in which facilities are maintained for the care of four or more women, not related by blood or marriage to the operator, during pregnancy or during or within ten days after delivery: Provided, however, that this definition will not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association, or its successor.

(~~viii~~) (vii) "Birth center" or "childbirth center" means a type of maternity home which is a house, building, or equivalent organized to provide facilities and staff to support

a birth service provided that the birth service is limited to low-risk maternal clients during the intrapartum period.

(~~ix~~) (viii) "Ambulatory surgical facility" means a facility, not a part of a hospital, providing surgical treatment to patients not requiring inpatient care in a hospital. (~~This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice. (NEC: Ambulatory Health Care Center.)~~)

(~~x~~) (ix) "Hospice care center" means any building, facility, place, or equivalent, organized, maintained, or operated specifically to provide beds, accommodations, facilities, or services over a continuous period of twenty-four hours or more for palliative care of two or more individuals, not related to the operator, who are diagnosed as being in the latter stages of an advanced disease which is expected to lead to death.

(~~xii~~) (x) "Renal hemodialysis clinic" means a facility in a building or part of a building which is approved to furnish the full spectrum of diagnostic, therapeutic, or rehabilitative services required for the care of renal dialysis patients (including inpatient dialysis furnished directly or under arrangement). (NEC: Ambulatory Health Care Center.)

(~~xiii~~) (xi) "Medical, dental, and chiropractic clinic" means any clinic or physicians' office where patients are not regularly kept as bed patients for twenty-four hours or more. Electrical plan review is not required.

(~~xiii~~) (xii) "Residential treatment facility" (~~for psychiatrically impaired children and youth" means a residence, place, or facility designed or organized to provide twenty-four-hour residential care or long-term individualized, active treatment for clients who have been diagnosed or evaluated as psychiatrically impaired.~~)

(~~xiv~~) "Adult residential rehabilitation center" means a residence, place, or facility designed or organized primarily to provide twenty-four-hour residential care, crisis and short-term care or long-term individualized active treatment and rehabilitation for clients diagnosed or evaluated as psychiatrically impaired or chronically mentally ill as defined herein or in chapter 71.24 RCW) means a facility licensed and operated twenty-four hours per day to provide health care to persons receiving services for a mental disorder or substance abuse.

(~~xv~~) (xiii) "Group care facility" means a facility other than a foster-family home maintained or operated for the care of a group of children on a twenty-four-hour basis.

(~~d~~) ~~Licensed day care centers.~~

(i) ~~"Child day care center" means a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods less than twenty-four hours.~~

(ii) ~~"School-age child care center" means a program operating in a facility other than a private residence accountable for school-age children when school is not in session. The facility must meet department of licensing requirements and provide adult supervised care and a variety of developmentally appropriate activities.~~

(iii) ~~"Family child day care home" means the same as "family child care home" and "a child day care facility"~~

licensed by the state, located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home. Electrical plan review is not required.)

Plan review for educational, institutional or health care facilities/buildings.

(2) Plan review is a part of the electrical inspection process; its primary purpose is to determine:

- (a) That service/feeder conductors are calculated and sized according to the proper NEC or WAC article or section;
- (b) The classification of hazardous locations; and
- (c) The proper design of emergency and standby systems.

(3) Electrical plan review.

(a) Electrical plan review is not required for:

- (i) Lighting specific projects that result in an electrical load reduction on each feeder involved in the project;
- (ii) Low voltage systems;
- (iii) Modifications to existing electrical installations where all of the following conditions are met:

- Service or distribution equipment involved is rated not more than 400 amperes and does not exceed 250 volts or for lighting circuits not exceeding 277 volts to ground;

- Does not involve emergency systems other than listed unit equipment per NEC 700.12(F);

- Does not involve branch circuits or feeders of an essential electrical system as defined in NEC 517.2; and

- Service and feeder load calculations are increased by 5% or less.

(iv) Stand-alone utility fed services that do not exceed 250 volts, 400 amperes where the project's distribution system does not include:

- Emergency systems other than listed unit equipment per NEC 700.12(F);

- Critical branch circuits or feeders as defined in NEC 517.2; or

- A required fire pump system.

(v) Heating and cooling specific retrofit projects that result in an electrical load reduction on each existing feeder involved in the project, provided there is not a corresponding increase in the available fault current in any feeder. Existing and new load calculations must be provided to the inspector at the time of the inspection.

(b) Electrical plan review is required for all other new or altered electrical projects in educational, institutional, or health care occupancies classified or defined in this chapter.

(c) If a review is required, the electrical plan must be submitted for review and approval before the electrical work is begun.

(d) Electrical plans.

(i) The plan must be submitted for plan review prior to beginning any electrical inspection. If a plan is rejected during the plan review process, no electrical inspection(s) may proceed until the plan is resubmitted and a conditional acceptance is granted.

(ii) The submitted plan will receive a preliminary review within seven business days after receipt by the department or city authorized to do electrical inspections.

(iii) If the submitted plan:

- Is rejected at the preliminary review, no inspection(s) will be made on the project.

- Receives conditional acceptance, the permit holder may request a preliminary inspection(s) in writing to the department or city authorized to do electrical inspections. The request must note that the preliminary inspection(s) is conditional and subject to any alterations required from the final plan review process.

(iv) Once the submitted plan has preliminary plan review approval, a copy of the submitted plan must be available on the job site for use by the electrical inspector.

(v) The final approved plan must be available on the job site, for use by the electrical inspector, after it is approved, but no later than prior to the final electrical inspection.

(vi) If the final approved plan requires changes from the conditionally accepted plan, alterations to the project may be required to make the project comply with the approved plan.

(vii) If the installer deviates from the service/feeder design shown on the final approved plan, a supplemental plan must be submitted for review before inspection can proceed. Load reductions or moving branch circuit locations within a panelboard do not require resubmission.

(e) All electrical plans for educational facilities, hospitals, and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW, and chapters 246-320, 180-29, and 388-97 WAC and stamped with the engineer's mark and signature.

(f) Refer plans for review to the Electrical Section, Department of Labor and Industries, P.O. Box 44460, Olympia, Washington 98504-4460 or the city authorized to do electrical inspections.

(g) Plans for projects within cities that perform electrical inspections must be submitted to that city for review.

(h) Plans to be reviewed must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include all switchboard and panelboard schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation, and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department or city authorized to do electrical inspections. ~~((Plan review fees are not required to be paid until the review is completed. Plans will not be returned until all fees are paid.))~~ Fees ~~((will))~~ **must** be calculated based on the date the plans are received by the department or city authorized to do electrical inspections.

(i) The department may perform the plan review for new or altered electrical installations of other types of construction when the owner or electrical contractor makes a voluntary request for review. A city authorized to do electrical inspections may require a plan review of any electrical system.

(j) For existing structures where additions or alterations to feeders and services are proposed, NEC 220.87(1) may be used. If NEC 220.87(1) is used, the following is required:

- (i) The date of the measurements.
- (ii) A statement attesting to the validity of the demand data, signed by a professional electrical engineer or the electrical administrator of the electrical contractor performing the work.
- (iii) A diagram of the electrical system identifying the point(s) of measurement.
- (iv) Building demand measured continuously on the highest-loaded phase of the feeder or service over a thirty-day period, with the demand peak clearly identified. Demand peak is defined as the maximum average demand over a fifteen-minute interval.

Notes to Tables 900-1 and 900-2.

1. A city authorized to do electrical inspections may require plan review on facility types not reviewed by the department.

**Table 900-1
Health or Personal Care Facilities**

Health or Personal Care Facility Type	Plan Review Required
Hospital	Yes
Nursing home unit or long-term care unit	Yes
Boarding home	Yes
Assisted living facility	Yes
Private alcoholism hospital	Yes
((Alcoholism treatment facility	Yes))
Private psychiatric hospital	Yes
Maternity home	Yes
Ambulatory surgery facility	Yes
Renal hemodialysis clinic	Yes
Residential treatment facility ((for psychiatrically impaired children and youth))	Yes
Adult residential rehabilitation center	Yes

**Table 900-2
Educational and Institutional Facilities,
Places of Assembly, or Other Facilities**

Educational, Institutional, or Other Facility Types	Plan Review Required
Educational	Yes
Institutional	Yes

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-901 General—Electrical work permits and fees.

General.

(1) When an electrical work permit is required by chapter 19.28 RCW or this chapter, inspections may not be made, equipment must not be energized, or services connected unless:

(a) A valid electrical work permit is ~~((completely and legibly filled out and readily available))~~ obtained and posted per subsection (5) of this section;

(b) The classification or type of facility to be inspected and the exact scope and location of the electrical work to be performed are clearly shown on the electrical work permit;

(c) The address where the inspection is to be made is clearly identifiable from the street, road or highway that serves the premises; and

(d) Driving directions are provided for the inspectors' use.

(2) Except as allowed for annual permits, an electrical work permit is valid for only one specific job site address.

~~((3) Except as provided in subsection (8) of this section, a valid electrical work permit must be posted on the job site at a readily accessible and conspicuous location prior to beginning electrical work and at all times until the electrical inspection process is completed.))~~

Permit - Responsibility for.

~~((4))~~ (3) Each person, firm, partnership, corporation, or other entity must furnish a valid electrical work permit for the installation, alteration, or other electrical work performed or to be performed solely by that entity. When the ~~((permitted work is performed solely or in part by another entity, the electrical work permit purchaser must))~~ original purchaser is replaced, another entity may request, in writing, written approval from the chief electrical inspector ((or the city that is authorized to do electrical inspections)) to take responsibility for the work of the original installing entity under the original permit. If permission is not granted the entity must obtain a new permit for the remaining work.

Two or more entities may never work under the same permit. Each electrical work permit application must be signed by the electrical contractor's administrator (or designee) or the person, or authorized representative of the firm, partnership, corporation, or other entity that is performing the electrical installation or alteration. Permits purchased electronically do not require a handwritten signature. An entity designated to sign electrical permits must provide written authorization of the purchaser's designation when requested by the department or city that is authorized to do electrical inspections.

~~((5))~~ (4) Permits to be obtained by customers. Whenever a serving electrical utility performs work for a customer under one of the exemptions in WAC 296-46B-925 and the work is subject to inspection, the customer is responsible for obtaining all required permits.

~~((6) Posting of permits:))~~ (5) Except as allowed for Class B permits, where an electrical work permit is required, the work permit must be obtained and posted at the job site or the electrical work permit number must be conspicuously posted and identified as the electrical work permit number on or adjacent to the electrical service or feeder panel supplying power to the work prior to beginning any electrical work and at all times until the electrical inspection process is completed.

Exceptions:

(a) For an owner, an electrical work permit for emergency repairs to an existing electrical system(s) must be obtained ~~((and posted at the job site))~~ no later than the next business day after the work is begun.

(b) For an electrical contractor, in a city's jurisdiction where the city is authorized to do electrical inspections and does not have a provisional ~~((and a Class B))~~ permit system, an electrical work permit for emergency repairs to an existing electrical system(s) must be obtained and posted, per the city's requirements at the job site no later than the next business day after the work is begun.

~~((7))~~ (6) Fees must be paid in accordance with the inspection fee schedule in Part C of this chapter. The amount of the fee due is calculated based on the fee effective at the date payment is made. If the project is required to have an electrical plan review, the plan review fees will be based on the fees effective at the date the plans are received by the department for review. In a city where the department is doing inspections as the city's contractor, a supplemental fee may apply.

Permit - Requirements for.

~~((8))~~ (7) As required by chapter 19.28 RCW or this chapter, an electrical work permit is required for the installation, alteration, or maintenance of all electrical systems or equipment except for:

(a) Travel trailers;

(b) Class A basic electrical work which includes:

(i) The like-in-kind replacement of ~~((a:))~~ lamps; a single set of fuses; a single battery smaller than 150 amp hour; contactors, relays, timers, starters, circuit boards, or similar control components; one household appliance; circuit breakers; ~~((fuse;))~~ single-family residential luminaires; ~~((lamp;))~~ up to five snap ~~((switch;))~~ switches, dimmers~~((;))~~, receptacle outlets~~((;))~~, thermostats~~((;))~~, heating elements~~((;))~~, luminaire ballasts with an exact same ballast; component(s) of electric signs, outline lighting, or skeleton neon tubing when replaced on-site by an appropriate electrical contractor and when the sign, outline lighting or skeleton neon tubing electrical system is not modified; one ten horsepower or smaller motor~~((;))~~.

For the purposes of this section, "circuit breaker" means a circuit breaker that is used to provide overcurrent protection only for a branch circuit, as defined in NEC 100.

(ii) Induction detection loops described in WAC 296-46B-300(2) and used to control gate access devices;

(iii) Heat cable repair; and

(iv) Embedding premanufactured heat mats in tile grout where the mat is listed by an approved testing laboratory and comes from the manufacturer with preconnected lead-in conductors. All listing marks and lead-in conductor labels must be left intact and visible for evaluation and inspection by the installing electrician and the electrical inspector.

Unless specifically noted, the exemptions listed do not include: The replacement of an equipment unit, assembly, or enclosure that contains an exempted component or combination of components (e.g., an electrical furnace/heat pump, industrial milling machine, etc.) or any appliance/equipment described in this section for Class B permits.

In the department's jurisdiction, a provisional electrical work permit label may be posted in lieu of an electrical work permit. If a provisional electrical work permit label is used, an electrical work permit must be obtained within two working days after posting the provisional electrical work permit label. See WAC 296-46B-907(2) for provisional label requirements.

~~((9))~~ (c) The following types of systems and circuits are considered exempt from the requirements for licensing and permitting described in chapter 19.28 RCW. The electrical failure of these systems does not inherently or functionally compromise safety to life or property.

(i) Low-voltage thermocouple derived circuits;

(ii) Low-voltage circuits for built-in residential vacuum systems;

(iii) Low-voltage circuits for underground landscape sprinkler systems;

(iv) Low-voltage circuits for underground landscape lighting; and

(v) Low-voltage circuits for residential garage doors.

For these types of systems and circuits to be considered exempt, the following conditions must be met:

(A) The power supplying the installation must be derived from a listed Class 2 power supply;

(B) The installation and termination of line voltage equipment and conductors supplying these systems is performed by appropriately licensed and certified electrical contractors and electricians;

(C) The conductors of these systems do not pass through fire-rated walls, fire-rated ceilings or fire-rated floors in other than residential units; and

(D) Conductors or luminaires are not installed in installations covered by the scope of Article 680 NEC (swimming pools, fountains, and similar installations).

(8) An electrical work permit is required for all installations of telecommunications systems on the customer side of the network demarcation point for projects greater than ten telecommunications outlets. All backbone installations regardless of size and all telecommunications cable or equipment installations involving penetrations of fire barriers or passing through hazardous locations require permits and inspections. For the purposes of determining the inspection threshold for telecommunications projects greater than ten outlets, the following will apply:

(a) An outlet is the combination of jacks and mounting hardware for those jacks, along with the associated cable and telecommunications closet terminations, that serve one workstation. In counting outlets to determine the inspection threshold, one outlet must not be associated with more than six standard four-pair cables or more than one twenty-five-pair cable. Therefore, installations of greater than sixty standard four-pair cables or ten standard twenty-five-pair cables require permits and inspections. (It is not the intent of the statute to allow large masses of cables to be run to workstations or spaces serving telecommunications equipment without inspection. Proper cable support and proper loading of building structural elements are safety concerns. When considering total associated cables, the telecommunications availability at one workstation may count as more than one outlet.)

(b) The installation of greater than ten outlets and the associated cables along any horizontal pathway from a telecommunications closet to work areas during any continuous ninety-day period requires a permit and inspection.

(c) All telecommunications installations within the residential dwelling units of single-family, duplex, and multi-family dwellings do not require permits or inspections. In residential multifamily dwellings, permits and inspections are required for all backbone installations, all fire barrier penetrations, and installations of greater than ten outlets in common areas.

(d) No permits or inspections are required for installation or replacement of cord and plug connected telecommunications equipment or for patch cord and jumper cross-connected equipment.

(e) Definitions of telecommunications technical terms will come from chapter 19.28 RCW, this chapter, TIA/EIA standards, and NEC.

~~((Permit--))~~ Inspection and approval.

~~((10)) (9)~~ Requests for inspections.

(a) Requests for inspections must be made no later than three business days after completion of the electrical/telecommunications installation or one business day after any part of the installation has been energized, whichever occurs first.

(b) Requests for after hours or weekend inspections must be made by contacting the local electrical inspection supervisor at least three working days prior to the requested date of inspection. The portal-to-portal inspection fees required for after hours or weekend inspections are in addition to the cost of the original electrical work permit.

~~(c) ((Emergency requests to inspect repairs necessary to preserve life and equipment safety may be requested at any time.~~

~~(d))~~ Inspections for annual electrical maintenance permits and annual telecommunications permits may be done on a regular schedule arranged by the permit holder with the department.

~~((11) Final)~~ (10) Inspections ~~((approval))~~ will not be made until all ~~((inspection))~~ permit fees are paid in full.

Permit - Duration/refunds.

~~((12)) (11)~~ Electrical work permits will expire one year after the date of purchase unless ~~((electrical work is actively and consistently in progress and inspections requested))~~ permission is granted by the chief electrical inspector or when the permit is closed or completed by the inspector. Refunds are not available for:

(a) Expired electrical work permits;

(b) Electrical work permit(s) fee items, within the department's jurisdiction, where the electrical installation has begun or an inspection requested for that work; or

(c) ~~((Any electrical work permit where an electrical inspection or electrical inspection request has been made.))~~ The first twenty-five dollars of each permit purchase - Application fee.

All refund requests must be made using the Request for Refund application form.

Permit - Annual telecommunications.

~~((13)) (12)~~ The chief electrical inspector or city that is authorized to do electrical inspections can allow annual per-

mits for the inspection of telecommunications installations to be purchased by a building owner or licensed electrical/telecommunications contractor. The owner's full-time telecommunications maintenance staff, or a licensed electrical/telecommunications contractor(s) can perform the work done under this annual permit. The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all the telecommunications work performed and the valid electrical or telecommunications contractor's license numbers for all contractors working under the permit. Upon request, the chief electrical inspector may allow the annual permit to be used for multiple worksites or addresses.

Permit - Annual electrical.

~~((14)) (13)~~ The chief electrical inspector or city that is authorized to do electrical inspections can allow annual permits for the inspection of electrical installations to be purchased by a building owner or licensed electrical contractor. This type of permit is available for commercial/industrial locations employing a full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor. Upon request, the chief electrical inspector may allow the annual permit to be used for multiple worksites or addresses.

The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all electrical work performed.

This type of electrical permit may be used for retrofit, replacement, maintenance, repair, upgrade, and alterations to electrical systems at a ~~((single))~~ plant or building location. This type of permit does not include new or increased service or new square footage.

Permit - Temporary construction project installations.

~~((15)) (14)~~ For temporary electrical installations, the department will consider a permit applicant to be the owner per RCW 19.28.261 under the conditions below:

Any person, firm, partnership, corporation, or other entity registered as a general contractor under chapter 18.27 RCW will be permitted to install a single electrical service per address for the purposes of temporary power during the construction phase of a project, when all of the following conditions are met:

(a) The installation is limited to the mounting and bracing of a preassembled pole or pedestal mounted service, the installation of a ground rod or ground plate, and the connection of the grounding electrode conductor to the ground rod or plate;

(b) The total service size does not exceed 200 amperes, 250 volts nominal;

(c) The service supplies no feeders;

(d) Branch circuits not exceeding 50 amperes each are permitted, provided such branch circuits supply only receptacles that are either part of the service equipment or are mounted on the same pole;

(e) The general contractor owns the electrical equipment;

(f) The general contractor has been hired by the property owner as the general contractor for the project;

(g) The general contractor must purchase an electrical work permit for the temporary service, request inspection, and obtain approval prior to energizing the service.

Posting of corrections.

(15) Electrical installations found to be not in compliance with approved standards must be corrected within fifteen calendar days of notification by the department as required in RCW 19.28.101(3). The notifications will be posted electronically on the electrical permit inspection results. A printed copy of the correction notification will be posted by the inspector at the job site for permits not purchased electronically.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-903 Equipment standards.

General.

(1) The standard(s) used, as the basis of electrical product certification, field evaluation, or department approval must be determined by the department to provide an adequate level of safety or define an adequate level of safety performance. Except for the reference of construction requirements to ensure the product can be installed in accordance with the National Electrical Code, field evaluations, by an approved laboratory, (~~shall~~) must not use the National Electrical Code as standard for product evaluation.

(2) Generally, standards will be:

(a) Developed by a standards developing organization under a method providing for input and consideration of views of industry groups, experts, users, consumers, governmental authorities, and others having broad experience in the electrical products safety field. A standard is used to control the quality and safety of a product;

(b) Compatible with and be maintained current with periodic revisions of applicable national codes and installation standards; and

(c) Approved by the department. The department will evaluate the proposed standard to determine that it provides an adequate level of safety.

(3) All ANSI safety designated electrical product standards may be deemed acceptable for their intended use without further qualification.

(4) If the product safety standard is not ANSI, the standard must be reviewed and approved by the department as an appropriate electrical product safety standard as a part of the field evaluation or department inspection process.

Industrial control panel and industrial utilization equipment inspection.

(5) Specific definitions for this section:

(a) "Department evaluation" means a review in accordance with subsection (6)(b) of this section.

(b) "Engineering evaluation" means a review in accordance with subsection (6)(c) of this section.

(c) "Food processing plants" include buildings or facilities used in a manufacturing process, but do not include:

- (i) Municipal or other government facilities;
- (ii) Educational facilities or portions thereof;
- (iii) Institutional facilities or portions thereof;
- (iv) Restaurants;

(v) Farming, ranching, or dairy farming operations;

(vi) Residential uses; or

(vii) Other installations not used for direct manufacturing purposes.

(d) In RCW 19.28.901, "industrial control panel" means a factory or user wired assembly of industrial control equipment such as motor controllers, switches, relays, power supplies, computers, cathode ray tubes, transducers, and auxiliary devices used in the manufacturing process to control industrial utilization equipment. The panel may include disconnecting means and motor branch circuit protective devices. Industrial control panels include only those used in a manufacturing process in a food processing or industrial plant.

(e) "Industrial plants" include buildings or facilities used in a manufacturing process or a manufacturing training facility (e.g., educational shop area in an educational or institutional facility), but do not include:

(i) Municipal or other government facilities;

(ii) Other educational facilities or portions thereof;

(iii) Other institutional facilities or portions thereof;

(iv) Restaurants;

(v) Farming, ranching, or dairy farming operations;

(vi) Residential uses; or

(vii) Other installations not used for direct manufacturing purposes.

(f) "Industrial utilization equipment" means equipment directly used in a manufacturing process in a food processing or industrial plant, in particular the processing, treatment, moving, or packaging of a material. Industrial utilization equipment does not include: Cold storage, warehousing, or similar storage equipment.

(g) "Manufacturing process" means to make or process a raw material or part into a finished product for sale using industrial utilization equipment. A manufacturing process does not include the storage of a product for future distribution (e.g., cold storage, warehousing, and similar storage activity).

(h) "Normal department inspection" is a part of the department electrical inspection process included with the general wiring inspection of a building, structure, or other electrical installation. Normal department inspection will only be made for equipment solely using listed or field evaluated components and wired to the requirements of the NEC. Fees for the normal department inspections required under this chapter are included in the electrical work permit fee calculated for the installation and are not a separate inspection fee. However, inspection time associated with such equipment is subject to the progress inspection rates in Part C of this chapter.

(i) For the purposes of this section, "panel" means a single box or enclosure containing the components comprising an industrial control panel. A panel does not include any wiring methods connecting multiple panels or connecting a panel(s) and other electrical equipment.

(6) Industrial control panels and industrial utilization equipment will be determined to meet the minimum electrical safety standards for installations by:

(a) Listing or field evaluation of the entire panel or equipment;

(b) Normal department inspection for compliance with codes and rules adopted under this chapter; or

(c) An engineering evaluation review where an engineer, accredited by the department, shows the equipment to be in compliance with an appropriate industrial equipment standard(s).

(i) See WAC 296-46B-997 for the requirements to become an accredited engineer.

(ii) The engineer may review equipment upon request by the equipment owner or the equipment manufacturer.

~~(iii) ((The engineer must notify the department of the intent to evaluate and submit a final approval report, within 10 days after applying the approval label or disapproving the equipment, using forms provided by the department. See Part C of this chapter for fee information.~~

~~(iv))~~ The equipment may be reviewed for compliance with the standard(s) before the equipment is located in Washington.

~~((iv))~~ (iv) Appropriate standards are:

- (A) NEMA;
- (B) ANSI;
- (C) NFPA 79;
- (D) UL 508A;
- (E) International Electrotechnical Commission 60204;

or

(F) Their equivalent.

~~((v))~~ (v) In cases where equipment has been previously reviewed and approved by an accredited engineer or the department and found to meet an appropriate standard(s), the equipment information will be placed on a "reviewed and approved industrial utilization equipment list" established and maintained by the ~~((department))~~ reviewing engineer. The list may be used by a reviewing engineer to aid in evaluating other like equipment. Because standards change over time, equipment will be removed from the list three years after the last successful review. The list will contain the following information:

- (A) Equipment manufacturer name;
- (B) Model and serial numbers;
- (C) Voltage, full load current; phasing; and asymmetrical fault current rating of the equipment;
- (D) Accessory items approved for use with the equipment;
- (E) Standard(s) to which the equipment was built;
- (F) Application of use for the equipment;
- (G) Original reviewing engineer's name; and
- (H) Date of the original review approval.

~~((vi))~~ (vi) If the engineer uses the "reviewed and approved industrial utilization equipment list," the engineer will visually determine that the equipment being reviewed is the exact same model as equipment on the list.

~~((vii))~~ (vii) Before the engineer's approval label can be applied, the engineer must visually inspect the equipment on site to determine that the equipment is in factory original good condition, has not been modified electrically, and the equipment use is appropriate to the standard(s).

~~((ix))~~ (viii) When the review is completed and the equipment is eligible for approval, the engineer must personally affix a permanent label to the equipment showing:

- (A) Engineer's name;

(B) Date of approval;

(C) Equipment serial number;

(D) Equipment voltage, full load current, phasing, and fault interrupting rating; and

(E) The following statement: "This equipment meets appropriate standards for industrial utilization equipment."

(7) The department may authorize, on a case-by-case basis, use of the industrial control panel or equipment, for a period not to exceed six months or as approved by the chief electrical inspector after use is begun, before its final inspection, listing, field evaluation, or engineering evaluation is complete.

AMENDATORY SECTION (Amending WSR 12-11-108, filed 5/22/12, effective 6/30/12)

WAC 296-46B-906 Inspection fees. 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.	\$90.30
Each additional 500 sq. ft. or portion of	\$28.90
(ii) Each outbuilding or detached garage - inspected at the same time as a dwelling unit on the property	\$37.60
(iii) Each outbuilding or detached garage - inspected separately	\$59.50
(iv) Each swimming pool - inspected with the service	\$59.50
(v) Each swimming pool - inspected separately	\$90.30
(vi) Each hot tub, spa, or sauna - inspected with the service	\$37.60
(vii) Each hot tub, spa, or sauna - inspected separately	\$59.50
(viii) Each septic pumping system - inspected with the service	\$37.60
(ix) Each septic pumping system - inspected separately	\$59.50

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

Each service and/or feeder		
Ampacity	Service/Feeder	Additional Feeder
0 to 200	\$97.40	\$28.90
201 to 400	\$121.10	\$59.50
401 to 600	\$166.40	\$82.80

601 to 800	\$213.50	\$113.70
801 and over	\$304.50	\$228.40

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

(i) Each altered service and/or altered feeder

Ampacity	Service/Feeder
0 to 200	\$82.80
201 to 600	\$121.10
601 and over	\$182.60

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder) \$44.80

(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) \$59.50
- (ii) Each additional circuit (see note above) \$6.40

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

- (i) Mobile home or modular home service or feeder only \$59.50
- (ii) Mobile home service and feeder \$97.40

(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 \$59.50
- (ii) Each additional site service; or additional site feeder inspected at the same time as the first service or feeder \$37.60

(2) Commercial/industrial.

(a) New service or 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 using 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.

Ampacity	Service/Feeder	Additional Feeder
0 to 100	\$97.40	\$59.50
101 to 200	\$118.60	\$75.80
201 to 400	\$228.40	\$90.30
401 to 600	\$266.20	\$106.30
601 to 800	\$344.30	\$144.80
801 to 1000	\$420.30	\$175.20
1001 and over	\$458.50	\$244.50

(b) Altered services/feeders (no circuits).

(i) Service/feeder

Ampacity	Service/Feeder
0 to 200	\$97.40
201 to 600	\$228.40
601 to 1000	\$344.30
1001 and over	\$382.40

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder) \$82.80

(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)(table) above.

- (i) First 5 circuits per branch circuit panel \$75.80
- (ii) Each additional circuit per branch circuit panel \$6.40

(d) Over 600 volts surcharge per permit. \$75.80

(3) Temporary service(s).

Notes:

- (1) See WAC 296-46B-590 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)) will 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	\$52.10	\$26.70
61 to 100	\$59.50	\$28.90
101 to 200	\$75.80	\$37.60
201 to 400	\$90.30	\$44.90
401 to 600	\$121.10	\$59.50
601 and over	\$137.40	\$68.40

(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 \$6.40
- (b) Towers - when not inspected at the same time as a service and feeder - 1 to 6 towers \$90.30
- (c) Each additional tower \$6.40

(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 \$44.90
- (ii) Each additional thermostat inspected at the same time as the first \$13.90

(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-908 for Class B work.

- (i) First 2500 sq. ft. or less \$52.10
- (ii) Each additional 2500 sq. ft. or portion thereof \$13.90

(c) Signs and outline lighting.

- (i) First sign (no service included) \$44.90
- (ii) Each additional sign inspected at the same time on the same building or structure \$21.20

(d) Berth at a marina or dock.

Note:

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

- (i) Berth at a marina or dock \$59.50
- (ii) Each additional berth inspected at the same time \$37.60

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

- (i) Yard pole, pedestal, or other meter loops only \$59.50
- (ii) Meters installed remote from the service equipment and inspected at the same time as a service, temporary service or other installations \$13.90

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

Regular fee plus surcharge of: \$113.70

(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 \$82.80

(h) Electrical - annual permit fee.

Note:

See WAC 296-46B-901((14)) (13).

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.

	Inspections	Fee
1 to 3 plant electricians	12	\$2,189.70
4 to 6 plant electricians	24	\$4,381.80
7 to 12 plant electricians	36	\$6,572.30
13 to 25 plant electricians	52	\$8,764.40
More than 25 plant electricians	52	\$10,956.50

(i) Telecommunications - annual permit fee.

Notes:

(1) See WAC 296-46B-901((13)) (12).

(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 \$181.00

Each additional hour, or portion thereof, of portal-to-portal inspection time \$90.30

(j) Permit requiring ditch cover inspection only.

Each 1/2 hour, or portion thereof \$44.90

(k) Cover inspection for elevator/conveyance installation. This item is only available to a licensed/registered elevator contractor. \$75.80

(6) Carnival inspections.

(a) First carnival field inspection each calendar year.

(i) Each ride and generator truck \$21.20

(ii) Each remote distribution equipment, concession, or gaming show \$6.40

(iii) If the calculated fee for first carnival field inspection above is less than \$100.50, the minimum inspection fee ~~shall~~ will be: \$113.70

(b) Subsequent carnival inspections.

(i) First ten rides, concessions, generators, remote distribution equipment, or gaming show \$113.70

(ii) Each additional ride, concession, generator, remote distribution equipment, or gaming show \$6.40

(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 \$90.30

(ii) Subsequent inspection of a single concession or ride, not part of a carnival \$59.50

(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.) \$90.30

(b) Submitter notifies the department that work is ready for inspection when it is not ready. \$44.90

(c) Additional inspection required because submitter has provided the wrong address or incomplete, improper or illegible directions for the site of the inspection. \$44.90

(d) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work. \$44.90

(e) Each trip necessary to remove a noncompliance notice. \$44.90

(f) Corrections that have not been made in the prescribed time, unless an exception has been requested and granted. \$44.90

(g) Installations that are covered or concealed before inspection. \$44.90

(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. \$44.90

(9) Plan review.

~~(a) Plan review fee is (thirty-five percent) 35% of the electrical work permit fee as determined by WAC 296-46B-906(-plus a).~~ ~~(\$75.80)~~ 35%

~~(b) Plan review submission ((and shipping/handling)) fee ((of)).~~ \$75.80

~~((a)) (c) Supplemental submissions of plans per hour or fraction of an hour of review time.~~ \$90.30

~~((b)) (d) Plan review shipping and handling fee.~~ \$21.20

(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: \$90.30

(12) Variance request processing fee.

Variance request processing fee. This fee is nonrefundable once the transaction has been validated. \$90.30

(13) Marking of industrial utilization equipment.

(a) Standard(s) letter review (per hour of review time). \$90.30

(b) Equipment marking - charged portal-to-portal per hour: \$90.30

(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.

(14) Class B basic electrical work labels.

- (a) Block of twenty Class B basic electrical work labels (not refundable) \$248.00
- (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-908(5). \$44.90
- (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-908(5). \$44.90

(15) Provisional electrical work permit labels.

- Block of twenty provisional electrical work permit labels. \$248.00

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-907 Provisional permits.

Provisional electrical work permit - Use/duration/refunds.

(1) Only licensed electrical or telecommunications contractors can use provisional electrical work permits.

(2) If a provisional electrical work permit label is used, the following requirements must be met:

(a) Prior to beginning the work, the certified electrician or telecommunications worker performing the installation must affix the provisional electrical work permit label to the building, structure or on the cover of the panelboard, overcurrent device, or telecommunications equipment supplying the circuit or equipment.

(b) The job site and contractor portion of the label must ~~((include the following:~~

- ~~(i) Date the work is begun;~~
- ~~(ii) Contractor's name;~~
- ~~(iii) Contractor's license number; and~~
- ~~(iv) Short description of the work.~~

(c) The contractor portion of the label must include the following:

- (i) Date the work is begun;
- (ii) Contractor's license number;
- (iii) Job site address;
- (iv) Owner's name; and

(v) Short description of the work)) be completely filled out.

~~((d))~~ (c) The label must be filled in using sunlight and weather resistant ink.

~~((e))~~ (d) The contractor must return the contractor's portion of the label to the department of labor and industries, electrical section office having jurisdiction for the inspection, within two working days after the job site portion of the label is affixed. Either receipt by department of labor and industries or postmark to a valid department of labor and industries electrical address is acceptable for meeting this requirement.

~~((f))~~ The contractor must return the contractor's portion of the label to the department of labor and industries, chief

~~electrical inspector, within five working days after destroying or voiding any label.~~

~~(g) The contractor is responsible for safekeeping of all purchased labels.)~~

(3) Refunds are not available for provisional electrical work permit labels.

(4) Provisional electrical work permit labels will be sold in blocks of twenty.

(5) Any contractor purchasing a provisional electrical work permit label may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

(6) An electrical work permit must be obtained within two working days after posting the provisional work permit label. See WAC 296-46B-907 (2)((e)) (d).

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-908 Class B permits.

Class B electrical work permit - Use.

(1) ~~((The electrical contractor must return the contractor's portion of the Class B label to the department of labor and industries, chief electrical inspector, within five working days after destroying or voiding any label.~~

~~(2) The electrical contractor is responsible for safekeeping of all purchased Class B labels.~~

~~(3) Only))~~ The Class B basic electrical random inspection process (Class B process) may only be used by:

(a) Licensed electrical/telecommunication contractors ((can use the Class B basic electrical inspection random inspection process); or

(b) Health care, ((large)) commercial, or industrial facilities using an employee(s) who is ((a)) an appropriately certified electrician(s) ((can use the Class B random electrical inspection process)) after requesting, in writing, and receiving permission from the chief electrical inspector.

~~((4) If the Class B random electrical inspection process is used, the following requirements must be met:~~

~~(a) The certified electrician/telecommunications worker performing the installation must affix a Class B installation label on the cover of the panelboard or overcurrent device supplying power to the circuit or equipment prior to beginning the work.~~

~~(b) The job site portion of the label must include the following:~~

- ~~(i) Date of the work;~~
- ~~(ii) Electrical/telecommunication contractor's name;~~
- ~~(iii) Electrical/telecommunication contractor's license number;~~

~~(iv) Installing electrician's certificate number, except for telecommunication work. For thermostat installations described in WAC 296-46B-965(15), the installing trainee may enter their training certificate number; and~~

~~(v) Short description of the work.~~

~~(c) The contractor portion of the label must include the following:~~

- ~~(i) Date of the work;~~
- ~~(ii) Electrical/telecommunication contractor's license number;~~

(iii) Installing electrician's certificate number, except for telecommunication work;

(iv) Job site address;

(v) Contact telephone number for the job site's owner (to be used to arrange inspection); and

(vi) Short description of the work.

(d) The label must be filled in using sunlight and weather resistant ink.

(e) The electrical/telecommunication contractor must return the contractor's portion of the label to the Department of Labor and Industries, Electrical Section, Chief Electrical Inspector, P.O. Box 44460, Olympia, WA 98504 4460 within fifteen working days after the job site portion of the Class B installation label is affixed.

~~(5))~~ Each entity doing work must use a separate label.

(2) Before beginning the work:

(a) For Class B labels obtained after February 28, 2013:

(i) Immediately upon posting the Class B label/number, the purchaser must use the department's on-line Class B system to enter the job site information for an unused Class B label obtained by the purchaser. If the posting occurs on a weekend or a federal/state holiday, the purchaser must use the on-line system to enter the information no later than the first business day after posting the label/number;

(ii) The person identified as the installer on the Class B label must post the Class B label or label number, in a conspicuous permanent manner, at the:

(A) Main service/feeder location supplying the structure or system; or

(B) Purchaser's equipment, or on the equipment conductors if the equipment is not in place.

(iii) The Class B label is valid immediately upon the purchaser completing the job site information in the department's on-line Class B system.

(b) For Class B labels obtained before March 1, 2013:

(i) The purchaser must fully enter the job site information on the job site and contractor portions of the Class B label.

(ii) The person identified as the installer on the Class B label must post the completed job site copy, in a conspicuous permanent manner, at the:

(A) Main service/feeder location supplying the structure or system;

(B) Purchaser's equipment, or on the conductors if the equipment is not available.

(iii) The purchaser must return the contractor copy to the Department of Labor and Industries, Electrical Section, Chief Electrical Inspector, P.O. Box 44460, Olympia, WA 98504-4460 within fifteen working days after the job site portion of the Class B installation label is affixed.

(iv) The Class B label is valid immediately upon posting on the job site.

(3) Class B (~~basic installation~~) labels will be sold in blocks and are nonrefundable and nontransferable.

~~(Installations where a)~~ (4) Class B (~~basic installation~~) label (~~is used~~) installations will be inspected on a random basis as determined by the department.

~~((a) If any such random inspection fails, a subsequent label in the block must be inspected.~~

~~(b) If any such subsequent installation fails inspection, another label in the block must be inspected until a label is approved without a correction(s).~~

~~(e))~~ (5) A progress inspection fee is required for any inspection required when a correction(s) is issued as a result of the inspection of ~~((any))~~ a Class B label ~~((or if an inspection is required because of (a) or (b) of this subsection. See Part C of this chapter for fees)).~~

(6) Any ~~((electrical/telecommunication contractor or other))~~ entity using the Class B ~~((basic electrical inspection random inspection))~~ process may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

(7) ~~((Class B basic electrical work means work other than Class A basic electrical work. See WAC 296-46B-901(8) for Class A definition.~~

~~(a))~~ A separate label is required for each line item listed below in subsection (10) of this section. For example, if the work includes an item under subsection (10)(a) and (b)(i) of this section, two labels are required.

(8) An entity using a Class B basic inspection label is restricted to using no more than two labels per week per job site.

(9) All Class B work must be completed within fifteen days after the label is validated. If the work is not completed, another Class B may be posted.

Except that, in a one- or two-family residential structure, a label is valid for ninety days after the label is validated, so long as all work described on the label is performed by the purchaser.

(10) Class B (~~basic electrical~~) work includes the following:

~~((+))~~ (a) Extension of not more than one branch electrical circuit limited to 120 volts and 20 amps each where:

~~((A))~~ (i) No cover inspection is necessary. For the purposes of this section, cover inspection does not include work covered by any surface that may be removed for inspection without damaging the surface; and

~~((B))~~ (ii) The extension does not supply more than two outlets as defined by the NEC.

~~((+))~~ (b) Single like-in-kind replacement of:

~~((A) A single luminaire not exceeding 277 volts and 20 amps; or~~

~~((B))~~ (i) A motor larger than 10 horsepower; or

~~((C))~~ (ii) The internal wiring of a furnace, air conditioner, refrigeration unit or household appliance; or

~~((D))~~ (iii) An electric/gas/oil furnace not exceeding 240 volts and 100 amps when the furnace is connected to an existing branch circuit. For the purposes of this section, a boiler is not a furnace; or

~~((E))~~ (iv) An individually controlled electric room heater (e.g., baseboard, wall, fan forced air, etc.), air conditioning unit, heat pump unit, or refrigeration unit not exceeding 240 volts, ~~((30))~~ 40 minimum circuit amps when the unit is connected to an existing branch circuit; or

~~((F))~~ (v) Circuit modification required to install not more than five residential load control devices in a residence where installed as part of an energy conservation program sponsored by an electrical utility and where the circuit does not exceed 240 volts and ~~((30))~~ 40 amps.

~~((iii))~~ (c) The following low voltage systems:

~~((A))~~ (i) Repair and replacement of devices not exceeding 100 volt-amperes in Class 2, Class 3, or power limited low voltage systems in one- and two-family dwellings; or

~~((B))~~ (ii) Repair and replacement of devices not exceeding 100 volt-amperes in Class 2, Class 3, or power limited low voltage systems in other buildings, provided the equipment is not for fire alarm or nurse call systems and is not located in an area classified as hazardous by the NEC; or

~~((C))~~ (iii) The installation of Class 2 or 3 device(s) or wiring for thermostat, audio, security, burglar alarm, intercom, amplified sound, public address, or access control systems where the installation does not exceed twenty devices or five thousand square feet. This does not include fire alarm, nurse call, lighting control, industrial automation/control or energy management systems; or

~~((D))~~ (iv) Telecommunications cabling and equipment requiring inspection in RCW 19.28.470 where the installation does not exceed twenty devices or five thousand square feet;

~~((iv))~~ (d) The replacement of not more than ten standard receptacles with GFCI receptacles;

~~((v))~~ (e) The conversion of not more than ten snap switches to dimmers for the use of controlling a luminaire(s) conversion;

(f) The like-in-kind replacement of up to twenty: Paddle fans, luminaires not exceeding 277 volts and 20 amperes; snap switches, dimmers, receptacle outlets, line voltage thermostats, heating elements, luminaire ballasts, circuit breakers, contractors, relays, timers, starters, circuit boards, fuses, or similar control components;

(g) The replacement of not more than two luminaires with paddle fans if a listed fan box has been previously installed to support the luminaires;

(h) The replacement of not more than four batteries rated not larger than 150 amp hours each that supply power to a single unit of equipment (e.g., uninterruptable power supply, photovoltaic storage system, control panel, etc.);

(i) The installation or repair of equipment powered by a stand-alone solar photovoltaic source where the:

(i) Electrical equipment requires no field assembly except for the attachment and electrical connection of the solar photovoltaic source to the equipment, the installation and attachment to a grounding electrode, and the placement of the equipment on a pad, pole, or other structure;

(ii) Solar photovoltaic source and the equipment operates at less than 15 volts DC;

(iii) Solar photovoltaic source is the only source of external power; and

(iv) Equipment and the solar photovoltaic source are appropriately labeled as a single unit. The label must be by an approved electrical testing laboratory or for equipment used for traffic control labeled according to WAC 296-46B-010(21).

~~((B))~~ (11) Class B basic electrical work does not include any work in:

~~((i))~~ (a) Areas classified as Class I, Class II, Class III, or Zone locations per NEC 500; or

~~((ii))~~ (b) Areas regulated by NEC 517 or 680; or

~~((iii))~~ (c) Any work where electrical plan review is required; or

~~((iv))~~ (d) Fire alarm, nurse call, lighting control, industrial automation/control or energy management systems.

~~((8) An entity using a Class B basic inspection label is restricted to using no more than two labels per week per job site.)~~

AMENDATORY SECTION (Amending WSR 12-11-108, filed 5/22/12, effective 6/30/12)

WAC 296-46B-909 Electrical/telecommunications contractor's license, administrator certificate and examination, master electrician certificate and examination, electrician certificate and examination, copy, and miscellaneous fees.

- Notes:**
- (1) The department will deny renewal of a license, certificate, or permit if an individual owes money as a result of an outstanding final judgment(s) to the department or is in revoked status. The department will deny application of a license, certificate, or permit if an individual is in suspended status or owes money as a result of an outstanding final judgment(s) to the electrical program.
 - (2) Certificates may be prorated for shorter renewal periods in one-year increments. Each year or part of a year will be calculated to be one year.
 - (3) The amount of the fee due is calculated based on the fee effective at the date payment is made.

(1) General or specialty contractor's license per twenty-four month period. (Nonrefundable after license has been issued.)	
(a) Initial application or renewal made in person, by mail, or by fax	\$266.20
(b) Renewal fully completed using the on-line web process	\$230.20
(c) Reinstatement of a general or specialty contractor's license after a suspension	\$53.90
(2) Master electrician/administrator/electrician/trainee certificate.	
(a) Examination application (nonrefundable)	
Administrator certificate examination application. (Required only for department administered examinations.) (Not required when testing with the department's contractor.)	\$33.30
(b) Examination fees (nonrefundable)	
Note:	
Normal examination administration is performed by a state authorized contractor. The fees for such examinations are set by contract with the department. For written examinations administered by the department, use the following fee schedule.	
(i) Master electrician or administrator first-time examination fee (when administered by the department)	\$80.40
(ii) Master electrician or administrator retest examination fee (when administered by the department)	\$94.20
(iii) Journeyman or specialty electrician examination fee (first test or retest when administered by the department)	\$60.50
(iv) Certification examination review fee	\$124.60
(c) Original certificates (nonrefundable after certificate has been issued)	
(i) Electrical administrator original certificate (except 09 telecommunication)	\$120.40
(ii) Telecommunications administrator original certificate (for 09 telecommunications)	\$80.10
(iii) Master electrician exam application (includes original certificate and application processing fee) (\$33.30 is nonrefundable after application is submitted)	\$154.00

(iv) Journeyman or specialty electrician application (includes original certificate and application processing fee) (\$33.30 is nonrefundable after application is submitted)	\$86.30	(i) Reinstatement of a suspended master electrician or administrator's certificate (in addition to normal renewal fee)	\$53.90
(v) Training certificate		(ii) Reinstatement of suspended journeyman, or specialty electrician certificate (in addition to normal renewal fee)	\$25.40
(A) Initial application made in person, by mail, or by fax	\$42.30	(f) Assignment/unassignment of master electrician/administrator designation (nonrefundable)	\$39.90
(B) Initial application fully completed on-line using the on-line web process	\$36.40	(3) Certificate/license.	
(C) 0% supervision modified training certificate. Includes trainee update of hours (i.e., submission of affidavit of experience) (\$51.20 is nonrefundable after application is submitted)	\$77.00	(a) Replacement for lost or damaged certificate/license. (Nonrefundable.)	\$17.50
(D) 75% supervision modified training certificate.	\$51.20	(b) Optional display quality General Master Electrician certificate.	\$28.40
(E) Unsupervised training certificate as allowed by RCW 19.28.161 (4)(b).	\$25.40	(4) Continuing education courses or instructors. (Nonrefundable.)	
(d) Certificate renewal (nonrefundable)		(a) If the course or instructor review is performed by the electrical board or the department	
(i) Master electrician or administrator certificate renewal		The course or instructor review	\$51.30
(A) Renewal made in person, by mail, or by fax	\$152.20	(b) If the course or instructor review is contracted out by the electrical board or the department	
(B) Renewal fully completed using the on-line web process	\$132.20	(i) Continuing education course or instructor submittal and approval (per course or instructor)	As set in contract
(ii) Telecommunications (09) administrator certificate renewal		(ii) Applicant's request for review, by the chief electrical inspector, of the contractor's denial	\$124.90
(A) Renewal made in person, by mail, or by fax	\$101.40	(5) Copy fees. (Nonrefundable.)	
(B) Renewal fully completed using the on-line web process	\$87.50	(a) Certified copy of each document (maximum charge per file):	\$56.70
(iii) Late renewal of master electrician or administrator certificate		(i) First page:	\$25.40
(A) Renewal made in person, by mail, or by fax	\$304.40	(ii) Each additional page:	\$2.10
(B) Renewal fully completed using the on-line web process	\$264.50	(b) ((Replacement)) RCW((#)) or WAC printed document:	\$5.60
(iv) Late renewal of telecommunications (09) administrator certificate		(6) Training school program review fees. Initial training school program review fee. (Nonrefundable.)	
(A) Renewal made in person, by mail, or by fax	\$202.90	(a) Initial training school program review fee submitted for approval. Valid for three years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$589.90
(B) Renewal fully completed using the on-line web process	\$175.00	(b) Renewal of training school program review fee submitted for renewal. Valid for 3 years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$294.90
(v) Journeyman or specialty electrician certificate renewal			
(A) Renewal made in person, by mail, or by fax	\$80.10		
(B) Renewal fully completed using the on-line web process	\$69.70		
(vi) Late renewal of journeyman or specialty electrician certificate			
(A) Renewal made in person, by mail, or by fax	\$160.30		
(B) Renewal fully completed using the on-line web process	\$139.50		
(vii) Trainee update of hours outside of renewal period (i.e., submission of affidavit of experience outside of the timeline in WAC ((296-46B-965 (7)(d))) 296-46B-942 (8)(d))	\$51.20		
(viii) Trainee certificate renewal			
(A) Renewal made in person, by mail, or by fax	\$51.20		
(B) Renewal fully completed using the on-line web process when the affidavit of experience is submitted per WAC ((296-46B-965 (7)(d))) 296-46B-942 (8)(d)	\$44.70		
(ix) Late trainee certificate renewal			
(A) Renewal made in person, by mail, or by fax	\$71.80		
(B) Renewal fully completed using the on-line web process	\$62.50		
(e) Certificate - reinstatement (nonrefundable)			

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-915 Civil penalty schedule.

Notes: Each day that a violation occurs ((with)) on a job site may be a separate offense.

Once a violation of chapter 19.28 RCW or chapter 296-46B WAC becomes a final judgment, any additional violation within three years becomes a "second" or "additional" offense subject to an increased penalty as set forth in the following tables.

In case of ((continued, repeated or gross)) a serious violation of the provisions of chapter 19.28 RCW or ((this chapter, or if property damage or bodily injury occurs as a result of the failure of a person, firm, partnership, corporation, or other entity to comply with chapter 19.28 RCW or this chapter)) as described in WAC 296-46B-990, the department may double the penalty amount((s)), up to ten thousand dollars shown in subsections (1) through (13) of this section.

((Continued or repeated violation may occur if the person, firm, partnership, corporation or other entity who violates a provision of chapter 19.28 RCW, chapter 296-46B WAC has received one or more written warnings or citations of a similar violation within a one-year period.))

A person, firm, partnership, corporation or other entity who violates a provision of chapter 19.28 RCW or chapter 296-46B WAC is liable for a civil penalty based upon the following schedule.

(1) Offering to perform, submitting a bid for, advertising, installing or maintaining cables, conductors or equipment:

- (a) That convey or utilize electrical current without having a valid electrical contractor's license.
 - (b) Used for information generation, processing, or transporting of signals optically or electronically in telecommunications systems without having a valid telecommunications contractor's license.
- First offense: \$500
 Second offense: \$1,500
 Third offense: \$3,000
 Each offense thereafter: \$6,000

(2) Employing an individual for the purposes of chapter 19.28 RCW who does not possess a valid certificate of competency or training certificate to do electrical work.

- First offense: \$250
 Each offense thereafter: \$500

(3) Performing electrical work without having a valid certificate of competency or electrical training certificate.

- First offense: \$250
 Each offense thereafter: \$500

(4) Employing electricians and electrical trainees for the purposes of chapter 19.28 RCW in an improper ratio. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.

- First offense: \$250
 Each offense thereafter: \$500

(5) Failing to provide proper supervision to an electrical trainee as required by chapter 19.28 RCW. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.

- First offense: \$250
 Each offense thereafter: \$500

(6) Working as an electrical trainee without proper supervision as required by chapter 19.28 RCW.

- First offense: \$50
 Second offense: \$250
 Each offense thereafter: \$500

(7) Offering, bidding, advertising, or performing electrical or telecommunications installations, alterations or maintenance outside the scope of the firm's specialty electrical or telecommunications contractor's license.

- First offense: \$500
 Second offense: \$1,500
 Third offense: \$3,000
 Each offense thereafter: \$6,000

(8) Selling or exchanging electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs which are not listed by an approved laboratory.

- First offense: \$500
 Second offense: \$1,000
 Each offense thereafter: \$2,000

Definition:

The sale or exchange of electrical equipment associated with hot tubs, spas, swimming pools or hydromassage bathtubs includes to: "Sell, offer for sale, advertise, display for sale, dispose of by way of gift, loan, rental, lease, premium, barter or exchange."

(9) Covering or concealing installations prior to inspection.

- First offense: \$250

- Second offense: \$1,000
 Each offense thereafter: \$2,000

(10) Failing to make corrections within fifteen days of notification by the department.

Exception:

Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.

- First offense: \$250
 Second offense: \$1,000
 Each offense thereafter: \$2,000

(11) Failing to get an inspection or obtain (or post) an electrical/telecommunications work permit or post a provisional electrical work permit label prior to beginning the electrical/telecommunications installation or alteration.

Exception:

In cases of emergency repairs, for owners, to existing electrical/telecommunications systems, this penalty will not be charged if the permit is obtained and posted no later than the business day following beginning work on the emergency repair.

Standard/provisional permit offenses:

- First offense: \$250
Second offense: \$1,000
Each offense thereafter: \$2,000

Class B offenses:

Failure to post a Class B label or number for Class B eligible work:

- First offense: \$((250)) 100
 Second offense: \$((1,000)) 250
 Each offense thereafter: \$((2,000)) 1,000

For other Class B offenses:

- First offense: \$100
Second offense: \$250
Each offense thereafter: \$1,000

(12) Violating chapter 19.28 RCW duties of the electrical/telecommunications administrator or master electrician.

(a) Failing to be a member of the firm or a supervisory employee and ((shall)) must be available during working hours to carry out the duties of an administrator or master electrician.

- First offense: \$1,000
 Second offense: \$1,500
 Each offense thereafter: \$3,000

(b) Failing to ensure that all electrical work complies with the electrical installation laws and rules of the state.

- First offense: \$100
 Second offense: \$250
 Third offense: \$1,000
 Each offense thereafter: \$3,000

(c) Failing to ensure that the proper electrical safety procedures are used.

- First offense: \$500
 Second offense: \$1,500
 Each offense thereafter: \$3,000

(d) Failing to ensure that inspections are obtained and that all electrical labels, permits, and certificates required to perform electrical work are used.

- First offense: \$250
 Each offense thereafter: \$500

Failure to obtain a Class B label or number for Class B eligible work:

- First offense: \$100
Second offense: \$250
Each offense thereafter: \$1,000

(e) Failing to ensure that all electrical licenses, required to perform electrical work are used (i.e., work performed must be in the allowed scope of work for the contractor).

First offense:	\$500
Second offense:	\$1,500
Third offense:	\$3,000
Each offense thereafter:	\$6,000

(f) Failing to see that corrective notices issued by an inspecting authority are complied with within fifteen days.

Exception: Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.

First offense:	\$250
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(g) Failing to notify the department in writing within ten days if the master electrician or administrator terminates the relationship with the electrical contractor.

First offense:	\$500
Second offense:	\$1,000
Each offense thereafter:	\$3,000

(13) **Violating any of the provisions of chapter 19.28 RCW or chapter 296-46B WAC which are not identified in subsections (1) through (12) of this section.**

RCW 19.28.161 through 19.28.271 and the rules developed pursuant to them.

First offense:	\$250
Each offense thereafter:	\$500

All other chapter 19.28 RCW provisions and the rules developed pursuant to them.

First offense:	\$250
Second offense:	\$750
Each offense thereafter:	\$2,000

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work. (1) **General electrical (01):** A general electrical license and/or certificate encompasses all phases and all types of electrical and telecommunications installations and minor plumbing under RCW 18.106.150. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater).

Specialties.

(2) All specialties listed in this subsection may perform the electrical work described within their specific specialty as allowed by the occupancy and location described within the specialty's scope of work. Except for residential (02), the scope of work for these specialties does not include plumbing work regulated under chapter 18.106 RCW. See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater). **Specialty** (limited) electrical licenses and/or certificates are as follows:

(a) **Residential (02):** Limited to the telecommunications, low voltage, and line voltage wiring of one- and two-

family dwellings, or multifamily dwellings not exceeding three stories above grade. All wiring is limited to nonmetallic sheathed cable, except for services and/or feeders, exposed installations where physical protection is required, and for wiring buried below grade.

(i) This specialty also includes the wiring for ancillary structures such as, but not limited to: Appliances, equipment, swimming pools, septic pumping systems, domestic water systems, limited energy systems (e.g., doorbells, intercoms, fire alarm, burglar alarm, energy control, HVAC/refrigeration, etc.), multifamily complex offices/garages, site lighting when supplied from the residence or ancillary structure, and other structures directly associated with the functionality of the residential units.

(ii) This specialty does not include wiring occupancies defined in WAC 296-46B-900(1), or commercial occupancies such as: Motels, hotels, offices, assisted living facilities, or stores.

(iii) See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty.

(b) **Pump and irrigation (03):** Limited to the electrical connection of circuits, feeders, controls, low voltage, related telecommunications, and services to supply: Domestic water systems and public water systems include but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls, and irrigation water pumps, circular irrigating system's pumps and pump houses.

This specialty may also perform the work defined in (c) of this subsection.

Also see RCW 18.106.010 (10)(c).

(c) **Domestic pump (03A):** Limited to the extension of a branch circuit, which is supplied and installed by others, to signaling circuits, motor control circuits, motor control devices, and pumps which do not exceed 7 1/2 horsepower at 250 volts AC single phase input power, regardless of motor controller output or motor voltage/phase, used in residential potable water or residential sewage disposal systems. Domestic water systems and public water systems include but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls.

Also see RCW 18.106.010 (10)(c).

(d) **Signs (04):** Limited to placement and connection of signs and outline lighting, the electrical supply, related telecommunications, controls and associated circuit extensions thereto; and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only. This specialty may service, maintain, or repair exterior luminaires that are mounted on a pole or other structure with like-in-kind components.

(i) Electrical licensing/certification is not required to:

(A) Clean the nonelectrical parts of an electric sign;

(B) ((~~T~~)) Form or pour a concrete pole base used to support a sign;

(C) ((~~T~~)) Operate machinery used to assist an electrician in mounting an electric sign or sign supporting pole; or

(D) ((~~T~~)) Assemble the structural parts of a billboard.

(ii) Electrical licensing/certification is required to: Install, modify, or maintain a sign, sign supporting pole, sign face, sign ballast, lamp socket, lamp holder, disconnect switch, or any other part of a listed electric sign.

(e) **Limited energy system (06):** Limited to the installation of signaling and power limited circuits and related equipment. This specialty is restricted to low-voltage circuits. This specialty includes the installation of telecommunications, HVAC/refrigeration low-voltage wiring, fire protection signaling systems, intrusion alarms, energy management and control systems, industrial and automation control systems, lighting control systems, commercial and residential amplified sound, public address systems, and such similar low-energy circuits and equipment in all occupancies and locations.

(i) For the purposes of this section, when a line voltage connection is removed and reconnected to a replacement component located inside the control cabinet, the replacement must be like-in-kind or replaced using the equipment manufacturer's authorized replacement component. The line voltage circuit is limited to 120 volts 20 amps maximum and must have a means of disconnect.

(ii) The limited energy systems (06) specialty may repair or replace line voltage connections terminated inside the cabinet to power supplies internal to the low voltage equipment provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the circuit.

(iii) The limited energy systems (06) specialty may not replace or modify the line voltage circuit or cabling or alter the means of connection of the line voltage circuit to the power supply or to the control cabinet.

Limited energy electrical contractors may perform all telecommunications work under their specialty (06) electrical license and administrator's certificate.

(f) HVAC/refrigeration systems:

(i) See WAC 296-46B-100 for specific HVAC/refrigeration definitions.

(ii) For the purposes of this section when a component is replaced, the replacement must be like-in-kind or made using the equipment manufacturer's authorized replacement component.

(iii) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may:

(A) Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all residential occupancies;

(B) Install, repair, replace, and maintain line voltage components within HVAC/refrigeration equipment. Such line voltage components include product illumination luminaires installed within and powered from the HVAC/refrigeration system (e.g., reach-in beverage coolers, frozen food cases, produce cases, etc.) and new or replaced factory authorized accessories such as internally mounted outlets;

(C) Repair, replace, or maintain the internal components of the HVAC/refrigeration equipment disconnecting means or controller so long as the disconnecting means or controller is not located within a motor control center or panelboard ((see Figure 920-1 and Figure 920-2));

(D) Install, repair, replace, and maintain short sections of raceway to provide physical protection for low-voltage cables. For the purposes of this section a short section cannot mechanically interconnect two devices, junction boxes, or other equipment or components; and

(E) Repair, replace, or maintain line voltage flexible supply whips not over six feet in length, provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the whip. There is no limitation on the whip raceway method (e.g., metallic replaced by nonmetallic).

(iv) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may not:

(A) Install line voltage controllers or disconnect switches external to HVAC/refrigeration equipment;

(B) Install, repair, replace, or maintain:

- Integrated building control systems, other than HVAC/refrigeration systems;

- Single stand-alone line voltage equipment or components (e.g., heat cable, wall heaters, radiant panel heaters, baseboard heaters, contactors, motor starters, and similar equipment) unless the equipment or component:

Is exclusively controlled by the HVAC/refrigeration system and requires the additional external connection to a mechanical system(s) (e.g., connection to water piping, gas piping, refrigerant system, ducting for the HVAC/refrigeration system, gas fireplace flume, ventilating systems, etc. (i.e., as in the ducting connection to a bathroom fan)). The external connection of the equipment/component to the mechanical system must be required as an integral component allowing the operation of the HVAC/refrigeration system; or

Contains a HVAC/refrigeration mechanical system(s) (e.g., water piping, gas piping, refrigerant system, etc.) within the equipment (e.g., "through-the-wall" air conditioning units, self-contained refrigeration equipment, etc.);

- Luminaires that serve as a building or structure lighting source, even if mechanically connected to a HVAC/refrigeration system (e.g., troffer luminaire used as a return air device, lighting within a walk-in cooler/freezer used for personnel illumination);

- Raceway/conduit systems;

- Line voltage: Service, feeder, or branch circuit conductors. However, if a structure's feeder/branch circuit supplies HVAC/refrigeration equipment containing a supplementary overcurrent protection device(s), this specialty may install the conductors from the supplementary overcurrent device(s) to the supplemental HVAC/refrigeration equipment if the supplementary overcurrent device and the HVAC/refrigeration equipment being supplied are located within sight of each other ((see Figure 920-2)); or

- Panelboards, switchboards, or motor control centers external to HVAC/refrigeration system.

(v) HVAC/refrigeration (06A):

(A) This specialty is not limited by voltage, phase, or amperage.

(B) No unsupervised electrical trainee can install, repair, replace, or maintain any part of a HVAC/refrigeration system that contains any circuit rated over 600 volts whether the circuit is energized or deenergized.

(C) This specialty may:

- Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies:

That have no more than three stories on/above grade; or

Regardless of the number of stories above grade if the installation:

- Does not pass between stories;
- Is made in a previously occupied and wired space; and
- Is restricted to the HVAC/refrigeration system;

• Repair, replace, and maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all occupancies regardless of the number of stories on/above grade.

• Install a bonding conductor for metal gas piping to an existing accessible grounding electrode conductor or grounding electrode only when terminations can be made external to electrical panelboards, switchboards, or other distribution equipment.

(D) This specialty may not install, repair, replace, or maintain: Any electrical wiring governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations) located outside the HVAC/refrigeration equipment.

(vi) HVAC/refrigeration - restricted (06B):

(A) This specialty may not perform any electrical work where the primary electrical power connection to the HVAC/refrigeration system exceeds: 250 volts, single phase, or 120 amps.

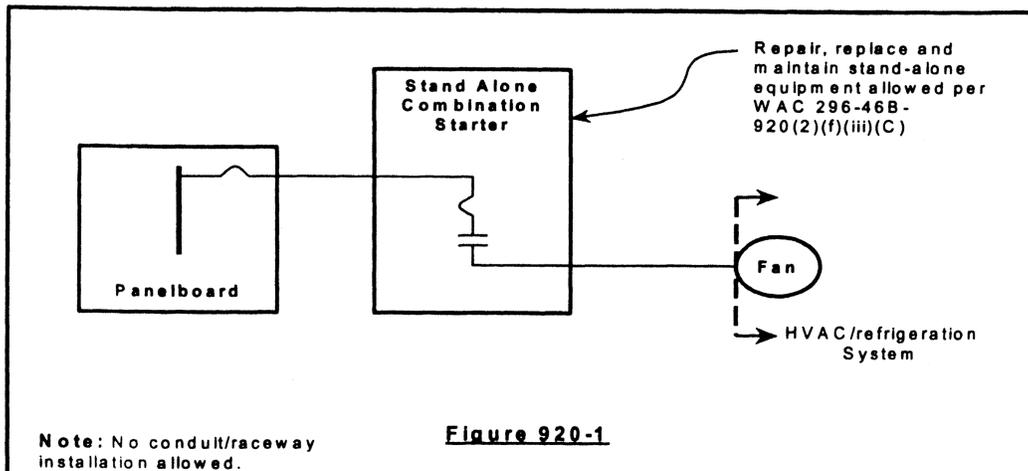
(B) This specialty may install, repair, replace, or maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies that have no more than three stories on/above grade.

(C) This specialty may not install, repair, replace, or maintain:

• The allowed telecommunications/low-voltage HVAC/refrigeration wiring in a conduit/raceway system; or

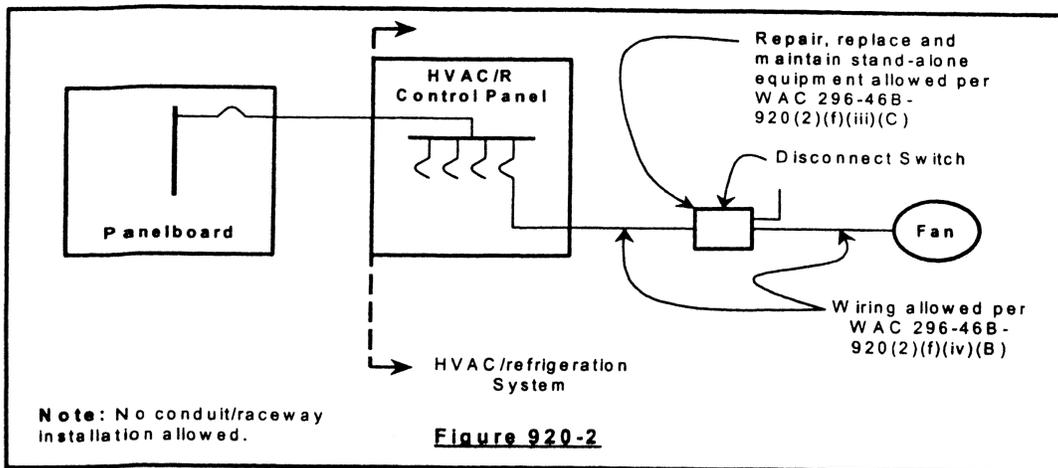
• Any electrical work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

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(g) **Nonresidential maintenance (07):** Limited to maintenance, repair and replacement of like-in-kind existing electrical equipment and conductors. This specialty does not include maintenance activities in residential dwellings defined in (a) of this subsection for the purposes of accumulating training experience toward qualification for the residential (02) specialty electrician examination.

This specialty may perform the work defined in (h), (i), (j), (k), and (l) of this subsection.

(h) **Nonresidential lighting maintenance and lighting retrofit (07A):** Limited to working within the housing of existing nonresidential luminaires for work related to repair, service, maintenance of luminaires and installation of energy efficiency lighting retrofit upgrades. This specialty includes replacement of lamps, ballasts, sockets and the installation of listed lighting retrofit reflectors and kits. All work is limited to the luminaire body, except remote located ballasts may be replaced or retrofitted with approved products. This specialty does not include installing new luminaires or branch circuits; moving or relocating existing luminaires; or altering existing branch circuits.

(i) **Residential maintenance (07B):** This specialty is limited to residential dwellings as defined in WAC 296-46B-920 (2)(a), multistory dwelling structures with no commercial facilities, and the interior of dwelling units in multistory structures with commercial facilities. This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-901.

This specialty is limited to equipment and circuits to a maximum of 250 volts, 60 amperes, and single phase maximum.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit or whip.

For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(j) **Restricted nonresidential maintenance (07C):** This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-901 except for the replacement or repair of circuit breakers.

This specialty is limited to equipment and circuits to a maximum of 277 volts and 20 amperes for lighting branch circuits only and/or maximum 250 volts and 60 amperes for other circuits.

The replacement of luminaires is limited to in-place replacement required by failure of the luminaire to operate. Luminaires installed in suspended lay-in tile ceilings may be relocated providing: The original field installed luminaire supply whip is not extended or relocated to a new supply point; or if a manufactured wiring assembly supplies luminaire power, a luminaire may be relocated no more than eight feet providing the manufactured wiring assembly circuiting is not changed.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit. For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip.

This specialty may perform the work defined in (h) and (i) of this subsection.

This specialty cannot perform any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(k) **Appliance repair (07D):** Servicing, maintaining, repairing, or replacing household appliances, small commercial/industrial appliances, and other small electrical utilization equipment.

(i) For the purposes of this subsection:

(A) The appliance or electrical utilization equipment must be self-contained and built to standardized sizes or types. The appliance/equipment must be connected as a single unit to a single source of electrical power limited to a maximum of 250 volts, 60 amperes, single phase.

(B) Appliances and electrical utilization equipment include, but are not limited to: Ovens, office equipment, vehicle repair equipment, commercial kitchen equipment, self-contained hot tubs and spas, grinders, and scales.

(C) Appliances and utilization equipment do not include systems and equipment such as: Alarm/energy management/similar systems, luminaires, furnaces/heaters/air conditioners/heat pumps, sewage disposal equipment, door/gate/similar equipment, or individual components installed so as to create a system (e.g., pumps, switches, controllers, etc.).

(ii) This specialty includes:

(A) The in-place like-in-kind replacement of the appliance or equipment if the same unmodified electrical circuit is used to supply the equipment being replaced. This specialty also includes the like-in-kind replacement of electrical components within the appliance or equipment;

(B) The disconnection and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit; and

(C) The installation of an outlet box and outlet at an existing appliance or equipment location when converting the appliance from a permanent electrical connection to a plug and cord connection. Other than the installation of the outlet box and outlet, there can be no modification to the existing branch circuit supplying the appliance or equipment.

(iii) This specialty does not include:

(A) The installation, repair, or modification of branch circuits conductors, services, feeders, panelboards, disconnect switches, or raceway/conductor systems interconnecting multiple appliances, equipment, or other electrical components.

(B) Any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(C) Any plumbing work regulated under chapter 18.106 RCW.

(l) **Equipment repair (07E):** Servicing, maintaining, repairing, or replacing utilization equipment.

See RCW 19.28.095 for the equipment repair scope of work and definitions. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(m) **Telecommunications (09):** Limited to the installation, maintenance, and testing of telecommunications systems, equipment, and associated hardware, pathway systems, and cable management systems.

(i) This specialty includes:

(A) Installation of open wiring systems of telecommunications cables.

(B) Surface nonmetallic raceways designated and used exclusively for telecommunications.

(C) Optical fiber innerduct raceway.

(D) Underground raceways designated and used exclusively for telecommunications and installed for additions or extensions to existing telecommunications systems not to exceed fifty feet inside the building.

(E) Incidental short sections of circular or surface metal raceway, not to exceed ten feet, for access or protection of telecommunications cabling and installation of cable trays and ladder racks in telecommunications service entrance rooms, spaces, or closets.

(F) Audio or paging systems where the amplification is integrated into the telephone system equipment.

(G) Audio or paging systems where the amplification is provided by equipment listed as an accessory to the telephone system equipment and requires the telephone system for the audio or paging system to function.

(H) Closed circuit video monitoring systems if there is no integration of line or low-voltage controls for cameras and equipment. Remote controlled cameras and equipment are considered (intrusion) security systems and must be installed by appropriately licensed electrical contractors and certified electricians.

(I) Customer satellite and conventional antenna systems receiving a telecommunications service provider's signal. All receiving equipment is on the customer side of the telecommunications network demarcation point.

(ii) This specialty does not include horizontal cabling used for fire protection signaling systems, intrusion alarms, access control systems, patient monitoring systems, energy management control systems, industrial and automation control systems, HVAC/refrigeration control systems, lighting control systems, and stand-alone amplified sound or public address systems. Telecommunications systems may interface with other building signal systems including security, alarms, and energy management at cross-connection junctions within telecommunications closets or at extended points of demarcation. Telecommunications systems do not include the installation or termination of premises line voltage service, feeder, or branch circuit conductors or equipment. Horizontal cabling for a telecommunications outlet, necessary to interface with any of these systems outside of a telecommunications closet, is the work of the telecommunications contractor.

(n) **Door, gate, and similar systems (10):** This specialty may install, service, maintain, repair, or replace door/gate/similar systems electrical operator wiring and equipment.

(i) For the purposes of this subsection, door/gate/similar systems electrical operator systems include electric gates, doors, windows, awnings, movable partitions, curtains and similar systems. These systems include, but are not limited to: Electric gate/door/similar systems operators, control push buttons, key switches, key pads, pull cords, air and electric treadle, air and electric sensing edges, coil cords, take-up reels, clocks, photo electric cells, loop detectors, motion detectors, remote radio and receivers, antenna, timers, lock-out switches, stand-alone release device with smoke detection, strobe light, annunciator, control panels, wiring and termination of conductors.

(ii) This specialty includes:

(A) Low-voltage, NEC Class 2, door/gate/similar systems electrical operator systems where the door/gate/similar systems electrical operator system is not connected to other systems.

(B) Branch circuits originating in a listed door/gate/similar systems electric operator control panel that supplies only door/gate/similar systems system components providing: The branch circuit does not exceed 600 volts, 20 amperes and the component is within sight of the listed door/gate/similar systems electric operator control panel.

(C) Reconnection of line voltage power to a listed door/gate/similar systems electric operator control panel is permitted provided:

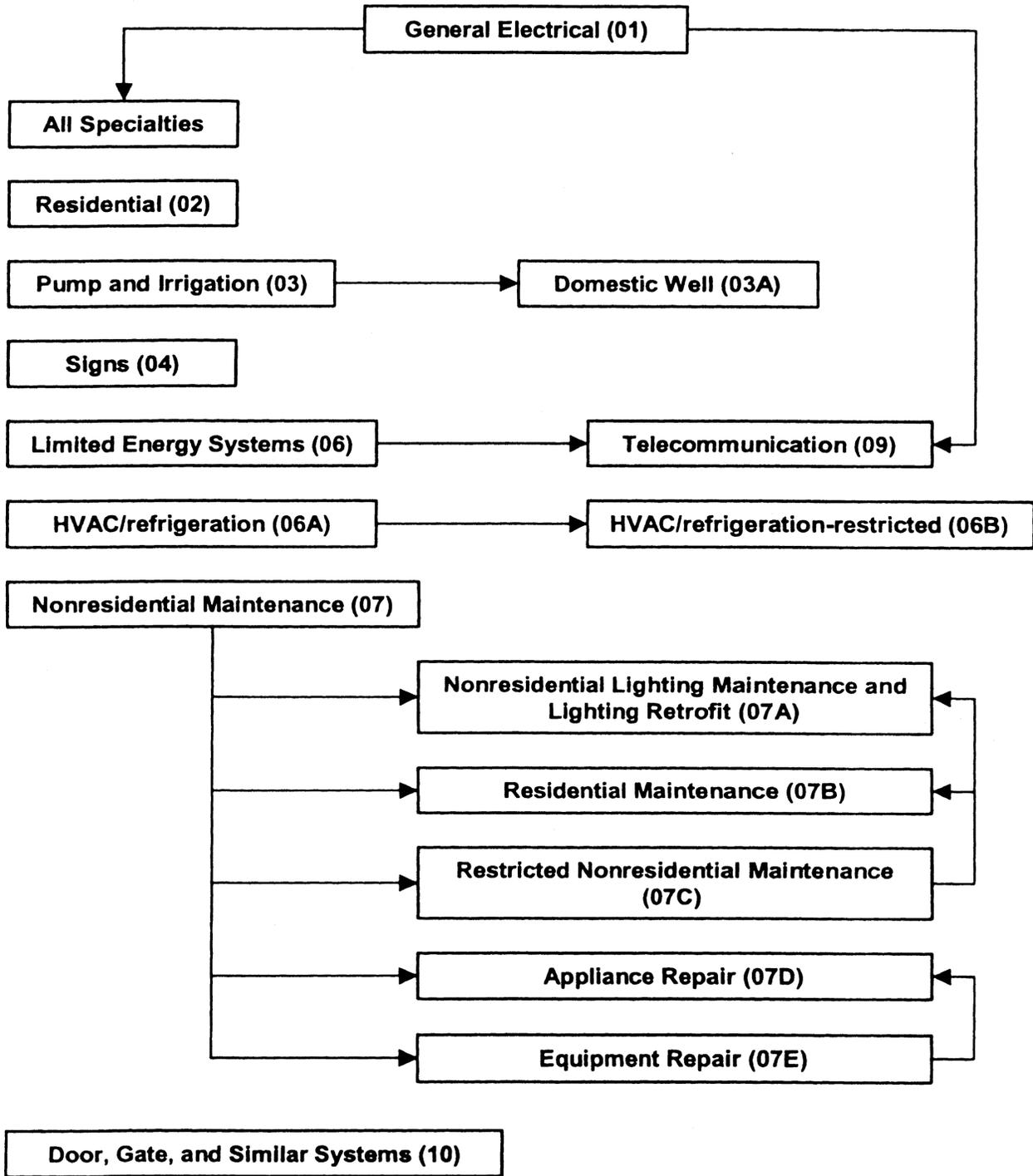
- There are no modifications to the characteristics of the branch circuit/feeder;
- The circuit/feeder does not exceed 600 volts, 20 amperes; and
- The conductor or conduit extending from the branch circuit/feeder disconnecting means or junction box does not exceed six feet in length.

(iii) This specialty does not include any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty may not install, repair, or replace branch circuit (line voltage) conductors, services, feeders, panelboards, or disconnect switches supplying the door/gate/similar systems electric operator control panel.

(3) A specialty electrical contractor, other than the (06) limited energy specialty electrical contractor, may only perform telecommunications work within the equipment or occupancy limitations of their specialty electrical contractor's license. Any other telecommunications work requires a telecommunications contractor's license.

((Table 920-1 Allowed Scope of Work Crossover))

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AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

WAC 296-46B-925 Electrical/telecommunications contractor's license. General.

(1) The department will issue an electrical/telecommunications contractor's license that will expire twenty-four months following the date of issue to a person, firm, partnership, corporation or other entity that complies with requirements for such license in chapter 19.28 RCW. An electrical/telecommunications contractor's license will not be issued to or renewed for a person, firm, or partnership unless the Social Security number, date of birth, and legal address of ~~((the individual legal owner(s)))~~ each member(s) (see WAC 296-46B-100 definition for member), are submitted with the application. The department may issue an electrical/telecommunications contractor's license for a period greater or less than twenty-four months for the purpose of equalizing the number of electrical contractor's licenses that expire each month. The department may prorate the electrical/telecommunications contractor's license fee according to the license period.

The applicant, upon application and renewal, must provide the department with the Social Security number, date of birth, and legal address of each member(s).

(2) Combination specialty contractor's license. The department may issue a combination specialty contractor's license to a firm that qualifies for more than one specialty electrical contractor's license. The assigned administrator must be certified in all specialties applicable to the combination specialty contractor's license. The license will plainly indicate the specialty licenses' codes included in the combination license. An administrator assigned to a telecommunications contractor must be certified as a telecommunications administrator. A combination license will not be issued for telecommunications **(09)**.

(3) See RCW 19.28.041(~~((+)))~~ (7) for a contractor doing domestic pumping work as defined in RCW 18.106.010 (10)(c).

(4) The department may deny application ~~((or)),~~ renewal, or reinstatement of an electrical/telecommunications contractor's license if a firm, an owner, partner, member, or corporate officer owes money as a result of an outstanding final judgment(s) to the department.

Electrical/telecommunications contractor bond, cash or securities deposit.

(5) Bond, cash, or securities deposit.

(a) The electrical/telecommunications contractor may furnish the department with a cash or security deposit to meet the bond requirements in lieu of posting a bond. A cash or security deposit assigned to the department for bond requirements will be held in place for one year after the contractor's license is expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as an electrical/telecommunications contractor. Upon written request, the cash or security deposit will then be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

(b) See RCW 19.28.041(7) for a contractor doing domestic pumping work as defined in RCW 18.106.010 (10)(c).

Telecommunications contractor insurance.

(6) To obtain a telecommunications contractor's license, the applicant must provide the department with an original certificate of insurance naming the department of labor and industries, electrical section as the certificate holder. Insurance coverage must be no less than twenty thousand dollars for injury or damages to property, fifty thousand dollars for injury or damage including death to any one person, and one hundred thousand dollars for injury or damage including death to more than one person. The insurance will be considered a continuing obligation unless canceled by the insurance company. The insurance company must notify the department in writing ten days prior to the effective date of said cancellation or failure to renew.

(7) The telecommunications contractor may furnish the department with an assigned account to meet the insurance requirements in lieu of a certificate of insurance. An account assigned to the department for insurance requirements will be held in place for three years after the contractor's license is expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as a telecommunications contractor. Upon written request, the account then will be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

Electrical/telecommunications contractor exemptions.

(8) The following types of systems and circuits are considered exempt from the requirements for licensing and permitting described in chapter 19.28 RCW. The electrical failure of these systems does not inherently or functionally compromise safety to life or property.

Low-voltage thermocouple derived circuits and low-voltage circuits for:

- (a) Built-in residential vacuum systems;
- (b) Underground landscape sprinkler systems;
- (c) Underground landscape lighting; and
- (d) Residential garage doors.

For these types of systems and circuits to be considered exempt, the following conditions must be met:

(e) The power supplying the installation must be derived from a listed Class 2 power supply;

(f) The installation and termination of line voltage equipment and conductors supplying these systems is performed by appropriately licensed and certified electrical contractors and electricians;

(g) The conductors of these systems do not pass through fire-rated walls, fire-rated ceilings or fire-rated floors in other than residential units; and

(h) Conductors or luminaires are not installed in installations covered by the scope of Article 680 NEC (swimming pools, fountains, and similar installations).

(9) Firms who clean and/or replace lamps in luminaires are not included in the requirements for licensing in chapter 19.28 RCW. This exemption does not apply to electric signs as defined in the NEC.

(10) Firms who install listed plug and cord connected utilization equipment are not included in the requirements for licensing in chapter 19.28 RCW. The plug and cord must be a single listed unit consisting of a molded plug and cord and not exceeding 250 volt 60 ampere single phase. The plug and cord can be field installed per the manufacturer's instructions and the product listing requirements. The utilization equipment must be a single manufactured unit, including the plug and cord, that does not require any electrical field assembly except for the installation of the plug and cord and is allowed to be plug and cord connected by the NEC.

(11) Firms regulated by the Federal Communications Commission or the utilities and transportation commission, supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(12) Unregulated firms, supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(13) Leaseholders. For electrical installations, maintenance, or alterations to existing buildings only, any person, firm, partnership, corporation, or other entity holding a valid, signed lease from the property owner authorizing the leaseholder to perform electrical work, on the property the leaseholder occupies, will be allowed to purchase an electrical permit(s) and do electrical work on or within the property described in the lease. The lessee and/or his or her regularly employed employees must perform the electrical installation, maintenance and alteration.

The lessee who performs the electrical maintenance or installation work must be the sole occupant of the property or space. Property owners or leaseholders cannot perform electrical work on new buildings for rent, sale, or lease, without the proper electrical licensing and certification. Refer to RCW 19.28.261 for exemptions from licensing and certification.

(14) Assisting a householder. A friend, neighbor, relative, or other person (including a certified electrician) may assist a householder, at his/her residence in the performance of electrical work on the condition that the householder is present when the work is performed and the person assisting the householder does not accept money or other forms of compensation for the volunteer work. For the purposes of this subsection, a residence is a single-family residence.

(15) Volunteering to do electrical work. There are no exceptions from the electrical contractor's license or electrician certification requirements to allow persons to perform volunteer electrical work for anyone other than a householder or a nonprofit organization as allowed by RCW 19.28.091(7). For the purpose of this section, volunteer means that there is no remuneration or receiving of goods or services in return for electrical installations performed.

(16) Farms or place of business. See RCW 19.28.261 for licensing/certification exemptions allowed for the owner(s) of a farm or other place of business and for the employees of the owner.

Exemptions - Electrical utility and electrical utility's contractor.

(17) Electrical utility exemptions.

(a) Utility system exemption - RCW 19.28.010(1) and 19.28.091(1).

(i) Neither a serving electrical utility nor a contractor or subcontractor employed by the serving electrical utility is required to have an electrical contractor's license for work on the "utility system" or on service connections or on meters or other apparatus used to measure the consumption of electricity.

(ii) Exemption from inspection. The work of a serving electrical utility and its contractor(s) on the work exempted by NEC 90.2 (b)(5), 1981 edition, is not subject to inspection.

(b) Street/area lighting exemption - RCW 19.28.091(2)(a)((~~A~~)).

(i) On:

(A) Publicly owned streets, parks, athletic/play fields, beaches, and similar areas where the public has general, clear, and unrestricted access; or

(B) Outside area lighting installed on a utility owned pole(s) that is used to support the utility's electric distribution wiring or equipment that supplies a private property owner's property, the serving electrical utility is considered to be an owner and is not required to have an electrical contractor's license or electrical permit to install or work on wiring or equipment, owned by the utility and used in the lighting of those streets/areas.

(ii) On other privately or publicly owned property (e.g., private streets, parking lots, businesses, schools, etc.), the serving utility is not required to have an electrical contractor's license or electrical permit to install or work on outside street/area lighting where the light(s) is supplied directly from the utility system and installed according to the NESC or NEC.

This work is considered to be utility type work.

An electric utility is not allowed to install or work on street/area lighting:

(A) When the area is privately or publicly owned and the public does not have general, clear, and otherwise unrestricted access such as: Industrial property, residential property, or other property where the public's access is restricted in any manner.

(B) Where the lighting is supplied from a source of power derived from a customer-owned electrical system.

(C) Where the lighting or wiring is attached to a building or other customer-owned structure.

(D) If the utility does not directly perform the installation or work, it may only contract the work to an appropriately licensed electrical contractor(s). See RCW 19.28.091(3).

(c) Customer-owned equipment exemption - RCW 19.28.091 (2)(b). A serving electrical utility is not required to have an electrical contractor's license to work on electrical equipment owned by a commercial, industrial, or public institution customer if:

(i) The utility has not solicited such work; and

(ii) Such equipment:

(A) Is located outside a building or structure; and

(B) The work performed is ahead of the secondary side of the customer's transformer(s) which supplies power at the customer's utilization voltage.

If the utility does not directly perform the installation or work, it may only contract the work to an appropriately licensed electrical contractor(s). See RCW 19.28.091(3).

This work is considered to be utility type work.

The owner will provide the electrical work permit and be responsible for requesting inspections and for ensuring the work is installed per chapter 19.28 RCW and this chapter.

Exemptions - Electrical utility telecommunications transition equipment installations, maintenance and repair.

(18) No license, inspection or other permit will be required by the department of any electric utility or, of any person, firm, partnership or corporation or other entity employed or retained by an electric utility or its contractor, because of work in connection with the installation, maintenance, or repair of telecommunications transition equipment located ahead of the utility's telecommunications network demarcation point on the outside of a building or other structure when the work is performed by a qualified person consistent with the requirements of the National Electric Code (NEC) except as provided in (a) and (b) of this subsection:

(a) The following exceptions to the NEC (~~shall~~) will be permitted:

(i) An additional service disconnect supplying power to the transition equipment can be connected on the supply side of the main service disconnect supplying general power to the building;

(ii) Service entrance disconnects may be separated when clearly labeled;

(iii) The service disconnect used for supplying power to the transition equipment must be connected to the grounding electrode system using:

(A) # 8 AWG copper or larger grounding electrode conductor if protected from physical damage; or

(B) # 6 AWG copper or larger grounding electrode conductor if not protected from physical damage;

(iv) Use of equipment or materials that have been listed/field evaluated by a recognized independent testing laboratory or the department;

(v) Low-voltage circuits do not require a separate disconnecting means and may be grounded to the transition equipment grounding system;

(vi) Any other variance to the NEC must be approved by the department.

(b) A variance recommended by a joint utility standards group composed of representatives of both public and private utilities or certified by a professional engineer will be approved by the department unless the recommendation is inconsistent with meeting equivalent objectives for public safety.

(c) For the purposes of this section, a qualified worker is employed by a utility or its contractor and is familiar with the construction or operation of such lines and/or equipment that concerns his/her position and who is proficient with respect to the safety hazards connected therewith, or, one who has passed a journey status examination for the particular branch of the electrical trades with which he/she may be connected

or is in a recognized training or apprenticeship course and is supervised by a journey level person.

(d) Although the utility is responsible for inspection and approval of the installation, including the selection of material and equipment, the department reserves the right to audit worker qualifications and inspect such installations semiannually for conformance with the requirements of (a), (b) and (c) of this subsection but (~~shall~~) will not collect a permit fee for such inspection or audit.

(e) If a utility fails to meet the requirements of this section, the department may require the utility to develop and submit a remedial action plan and schedule to attain compliance with this section which may be enforced by the department.

(f) This exemption (~~shall~~) will be in addition to any other exemption provided in chapter 19.28 RCW, this chapter or other applicable law.

Exemptions - Independent electrical power production equipment exemption.

(19) An independent electrical power production entity is not required to have an electrical contractor's license to work on electrical equipment used to produce or transmit electrical power if:

(a) The entity is:

(i) The owner or operator of the generating facility is regulated by the Federal Energy Regulatory Commission (FERC);

(ii) A municipal utility, or other form of governmental electric utility, or by an electrical cooperative or mutual corporation; or

(iii) The owner or operator of the generating facility is an independent electrical power producer and the facility generates electrical power only for sale to one or more:

(A) Electrical utilities regulated by FERC, municipal utility, or other form of governmental utility, or to an electric cooperative or mutual corporation; and

(B) The electrical power generated by the facility is not used for self-generation or any other on- or offsite function other than sale to one or more utilities regulated by FERC or by one or more state public utilities commissions, or to a PUD, municipal utility, or other form of governmental electric utility, or to an electric cooperative or mutual corporation.

(b) The entity must supply the chief electrical inspector a valid master business license issued by the department of licensing, state of Washington so that the entity's status as a revenue generating business can be confirmed.

(c) The entity has entered into an agreement to sell electricity to a utility or to a third party; and

(d) The electrical equipment is used to transmit electricity from the terminals of an electrical generating unit located on premises to the point of interconnection with a utility system.

(e) The electrical power production facility's generation capacity exceeds (~~115~~) 100 KVA.

(f) Notwithstanding that a generating facility may be granted an exemption pursuant to this section, the facility will be subject to all the requirements of chapter 19.28 RCW if the facility at any time in the future ceases to comply with the

requirements for exemption. All site facilities not exclusively and directly required to generate and/or distribute the electrical power generated on the site are subject to all the licensing and inspection requirements of chapter 19.28 RCW. All facility services, feeders, and circuits not exclusively and directly required to generate and/or distribute the electrical power (e.g., lights, outlets, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection. Facility circuits supplied to equipment required for the function of generation equipment (e.g., block heaters, power supplies, wind generator tower circuits, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection up to and including the equipment termination point.

(g) The generation equipment must not be mounted on or in any building or structure not required for generation of power (e.g., schools, offices, residences, apartment buildings, hospitals, etc.).

Exemptions - Telegraph and telephone utility and telegraph and telephone utility's contractor.

(20) Telegraph and telephone utility exempted equipment and installations. No person, firm, partnership, corporation, or other entity is required to have an electrical contractor's license for work on electrical equipment and installations thereof that are exempted by RCW 19.28.151. For the purposes of this exemption, "building or buildings used exclusively for that purpose" may mean any separate building or space of a building where the space is separated from the remainder of the building by a two-hour fire wall. The telecommunications or telegraph equipment within such a space must supply telephone or telegraph service to other customer's buildings (i.e., telecommunications or telegraph equipment cannot solely supply the building containing the telephone/telegraph space).

Exemptions - Manufacturers of electrical/telecommunications products.

(21) Manufacturers of electrical/telecommunications systems products will be allowed to utilize a manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment, modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing:

(a) Provided the product:

(i) Has not been previously energized;

(ii) Has been recalled by the Consumer Product Safety Commission;

(iii) Is within the manufacturer's written warranty period; or

(iv) The manufacturer is working under the written request and supervision of an appropriately licensed electrical contractor.

(b) Except for the replacement of individual components, as allowed above, this exemption does not include the initial installation, removal, or replacement of the electrical product. Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring.

(c) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory.

(d) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

Premanufactured electric power generation equipment assemblies and control gear.

(22) Premanufactured electric power generation equipment assemblies and control gear.

(a) Manufacturers of premanufactured electric power generation equipment assemblies and control gear will be allowed to utilize a manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment, modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing, provided:

(i) For transfer equipment, the product has not been previously energized or is within the manufacturer's written warranty period;

(ii) Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring;

(iii) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory; or

(iv) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

(b) Premanufactured electric power generation equipment assemblies are made up of reciprocating internal combustion engines and the associated control gear equipment. Control gear equipment includes control logic, metering, and annunciation for the operation and the quality of power being generated by the reciprocating internal combustion engine and does not have the function of distribution of power.

(c) Modifications of a transfer switch must not include changes to the original intended configuration or changes or contact with externally field-connected components.

(d) For the purposes of this subsection, the following work on premanufactured electric power generation equipment assemblies is not exempt from the requirements of chapter 19.28 RCW:

(i) Installation or connection of conduit or wiring between the power generation unit, transfer switch, control gear;

(ii) Installation of the transfer switch;

(iii) Connections between the power generation unit, transfer switch, control gear, and utility's transmission or distribution systems;

(iv) Connections between the power generation unit, transfer switch, control gear, and any building or structure; or

(v) Test connections with any part of:

(A) The utility's transmission or distribution system; or

(B) The building or structure.

(23) The installation, maintenance, or repair of a medical device deemed in compliance with chapter 19.28 RCW is

exempt from licensing requirements under RCW 19.28.091, certification requirements under RCW 19.28.161, and inspection and permitting requirements under RCW 19.28.101. This exemption does not include work providing electrical feeds into the power distribution unit or installation of conduits and raceways. This exemption covers only those factory engineers or third-party service companies with equivalent training who are qualified to perform such service.

(24) Coincidental electrical/plumbing work. See RCW 19.28.091(8) for the plumber exemption.

(25) Nothing in this section will alter or amend any other exemptions from or requirement for licensure or inspection, chapter 19.28 RCW or this chapter.

Photovoltaic equipment.

(26) See WAC 296-46B-690 for specific exemptions related to photovoltaic installations.

AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-930 Assignment—Administrator or master electrician. An administrator or master electrician designated on the electrical/telecommunications contractor's license must be a member of the firm who fulfills the duties of an assigned master electrician/administrator as required in RCW 19.28.061(5), or be a full-time supervisory employee. ~~((In determining whether the individual is a member of the firm, the department will require that the individual is named on the electrical contractor application or at subsequent renewal and:~~

~~(1) Partners must be on file with the department of licensing; or~~

~~(2) Corporate officers or members of an LLC must be on file with the secretary of state.))~~ A member of the firm is defined in WAC 296-46B-100.

In determining whether an individual is a full-time supervisory employee, the department will consider whether the individual is on the electrical/telecommunications contractor's full-time payroll; receives a regular salary or wage similar to other employees; has supervisory responsibility for work performed by the electrical/telecommunications contractor, and carries out the duties shown in chapter 19.28 RCW.

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-935 Administrator certificate. General.

(1) The department will deny application ~~((or)),~~ renewal, or reinstatement of a certificate if an individual owes money as a result of an outstanding final judgment(s) to the department.

(2) For special accommodation see WAC 296-46B-960.

(3) An applicant will not be issued a specialty administrator certificate that is a subspecialty of a certificate the applicant currently holds (i.e., the applicant is not eligible to take the domestic well administrator examination if the appli-

cant currently possesses a pump and irrigation administrator certificate).

Qualifying for examination.

(4) There are no qualification requirements for taking an administrator certificate examination. Applicants should contact the testing agency directly.

Original - Administrator certificates.

(5) The scope of work for electrical administrators is described in WAC 296-46B-920. The department will issue an original administrator certificate to a general administrator, or specialty administrator who:

(a) Successfully completes the appropriate administrator examination; and

(b) Submits the appropriate examination passing report from the testing agency with the applicant's: Date of birth, mailing address, and Social Security number; and

(c) Pays all appropriate fees as listed in WAC 296-46B-909.

For an examination report to be considered, all the above must be submitted within ninety days after the completion of the examination. After ninety days, the applicant will be required to successfully retake the complete examination. An individual's original administrator certificate will expire on their birth date at least one year, and not more than three years, from the date of original issue.

Combination - Specialty administrator certificate.

(6) The department may issue a combination specialty administrator certificate to an individual who qualifies for more than one specialty administrators' certificate. The combination specialty administrators' certificate will plainly indicate the specialty administrator's certificate(s) the holder has qualified for. Telecommunications cannot be issued a combination because the renewal requirements are different from those required for electrical administrators.

Renewal - Administrator certificate.

(7) An individual must apply for renewal of their administrator certificate on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years, with the exception of telecommunications administrators, who will be renewed for two years.

(8) An individual may renew their administrator certificate within ninety days after the expiration date without reexamination if the individual pays the late renewal fee listed in WAC 296-46B-909.

(9) All renewals received more than ninety days after the expiration date of the certificate will be denied. The administrator will be required to pass the appropriate administrator examination before being recertified.

(10) All applicants for certificate renewal must:

(a) Submit a complete renewal application;

(b) Pay all appropriate fees as listed in WAC 296-46B-909; and

(c) Provide accurate evidence on the renewal form that the individual has completed the continuing education requirements described in WAC 296-46B-970. If an individ-

ual files inaccurate or false evidence of continuing education information when renewing a certificate, the individual's certificate may be suspended or revoked.

Telecommunications administrators are not required to provide continuing education information.

Continuing education for pump and irrigation **(03)** and domestic pump **(03A)** administrators may be comprised of fifty percent electrical and fifty percent plumbing instruction.

(11) An individual who has not completed the required hours of continuing education can renew an administrator's certificate if the individual applies for renewal on or before the certificate expires and pays the appropriate renewal fee. However, the certificate will be placed in an inactive status.

When the certificate is placed in inactive status, an assigned administrator will be automatically unassigned from the electrical contractor. The electrical contractor will be notified of the unassignment and has ninety days to replace the administrator. An assignment fee will then be required per WAC 296-46B-909.

The inactive certificate will be returned to current status upon validation, by the department, of the required continuing education requirements. If the certificate renewal date occurs during the inactive period, the certificate must be renewed on or before the renewal date to allow the return to current status.

(12) An individual may renew a suspended administrator's certificate by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(13) An individual may not renew a revoked administrator's certificate.

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-940 Electrician/~~(training)~~ certificate of competency ~~((or permit))~~ required.

~~((Electrician --))~~ **General.**

(1) The department will deny application ~~((or)),~~ renewal, or reinstatement of a certificate or permit if an individual owes money as a result of an outstanding final judgment(s) to the department.

~~((Electrician -- Scope of work.))~~

(2) The scope of work for electricians ~~((and trainees))~~ is described in WAC 296-46B-920.

Electrician - Certificate of competency required.

(3) To work in the electrical construction trade, an individual must possess, wear, and visibly display on the front of the upper body, a current valid:

(a) Master journeyman electrician certificate of competency issued by the department;

(b) Journeyman electrician certificate of competency issued by the department;

(c) Master specialty electrician certificate of competency issued by the department;

(d) Specialty electrician certificate of competency issued by the department; or

(e) Electrical training certificate, learning the trade in the proper ratio, per RCW 19.28.161, under the supervision of a certified master journeyman electrician, journeyman electrician, master specialty electrician working in their specialty, or specialty electrician working in their specialty.

The certificate may be worn inside the outer layer of clothing when outer protective clothing (e.g., rain gear when outside in the rain, arc flash, welding gear, etc.) is required. The certificate must be worn inside the protective clothing so that when the protective clothing is removed, the certificate is visible. A cold weather jacket or similar apparel is not protective clothing.

The certificate may be worn inside the outer layer of clothing when working in an attic or crawl space or when operating equipment (e.g., drill motor, conduit threading machine, etc.) where wearing the certificate may pose an unsafe condition for the individual.

The certificate must be immediately available for examination at all times.

When working as a certified electrician, the electrician must not display a training certificate.

When supervising a trainee(s), the supervising electrician's certificate must be appropriate for the work being performed by the trainee(s).

Any person working as an electrician or trainee must also possess a government issued photo identification and immediately present that identification when requested by the inspector.

(4) The department issues master electrician and electrician certificates of competency in the following areas of electrical work:

(a) General journeyman **(01)**;

(b) Specialties:

(i) Residential **(02)**;

(ii) Pump and irrigation **(03)**;

(iii) Domestic pump **(03A)**;

(iv) Signs **(04)**;

(v) Limited energy system **(06)**;

(vi) HVAC/refrigeration **(06A)**;

(vii) HVAC/refrigeration - restricted **(06B)**;

(viii) Nonresidential maintenance **(07)**;

(ix) Nonresidential lighting maintenance and lighting retrofit **(07A)**;

(x) Residential maintenance **(07B)**;

(xi) Restricted nonresidential maintenance **(07C)**;

(xii) Appliance repair **(07D)**;

(xiii) Equipment repair **(07E)**; and

(xiv) Door, gate, and similar systems **(10)**.

Original certificates of competency.

(5) The department will issue an original certificate of competency to master, journeyman, or specialty electricians who meet the eligibility requirements listed in:

(a) RCW 19.28.191 (1)(a) or (b) and chapter 19.28 RCW; and

(i) Submit an application for an original master electrician certificate including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-909;

(b) RCW 19.28.191 (1)(d) and (e);

(i) Submit an original master electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-909; or

(c) RCW 19.28.191 (1)(f) through (g);

(i) Submit an original electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-909.

(6) An individual's original electrician certificate of competency will expire on their birth date at least two years, and not more than three years, from the date of original issue.

Renewal - Master electrician, journeyman, and specialty electrician certificates of competency.

(7) An individual must apply for renewal of their electrician certificate of competency on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years.

(8) An individual may renew their certificate of competency within ninety days after the expiration date without reexamination if the individual pays the late renewal fee listed in WAC 296-46B-909.

(9) All applications for renewal received more than ninety days after the expiration date of the certificate of competency require that the electrician pass the appropriate competency examination before being recertified.

(10) All applicants for certificate of competency renewal must:

(a) Submit a complete renewal application;

(b) Pay all appropriate fees; and

(c) Provide accurate evidence on the renewal form that the individual has completed the continuing education requirements described in WAC 296-46B-970. Continuing education classes are only valid when all the requirements of WAC 296-46B-970 are completed. If an individual files inaccurate or false evidence of continuing education information when renewing a certificate of competency, the individual's certificate of competency may be suspended or revoked.

Continuing education for pump and irrigation (03) and domestic pump (03A) electricians may be comprised of fifty percent electrical and fifty percent plumbing instruction.

(11) An individual who has not completed the required hours of continuing education can renew a certificate of competency if the individual applies for renewal before the certificate of competency expires and pays the appropriate renewal fee. However, the certificate of competency will be placed in an inactive status. The inactive certificate of competency will be returned to current status upon validation, by the department, of the required continuing education. If the certificate renewal date occurs during the inactive period, the certificate must be renewed on or before the renewal date to allow the return to current status.

(12) An individual may renew a suspended certificate of competency by submitting a complete renewal application including obtaining and submitting the continuing education

required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(13) An individual may not renew a revoked certificate of competency.

Exemptions - Linemen.

~~((5))~~ (14) When performing the work described and allowed in WAC 296-46B-925 (17)(a) or (b)(i), when employed by the serving utility or its contractor or subcontractor(s), a lineman is exempt from the requirements of chapter 19.28 RCW.

~~((6))~~ (15) When performing the work described and allowed in WAC 296-46B-925 (17)(b)(ii) or (c), when employed by the serving utility or its licensed electrical contractor or subcontractor(s), a lineman must meet the requirements of RCW 19.28.261 (5)(b) or be an appropriately certified electrician. See the definition of a lineman in WAC 296-46B-100.

Exemptions - Plumbers.

~~((7))~~ (16) Coincidental electrical/plumbing work. See RCW 19.28.091(8) for the plumber exemption.

~~((Original — Master electrician, journeyman, and specialty electrician certificates of competency.~~

~~(8) The department will issue an original certificate of competency to master, journeyman, or specialty electricians who meet the eligibility requirements listed in:~~

~~(a) RCW 19.28.191 (1)(a) or (b); and~~

~~(i) Submit an application for an original master electrician certificate including: Date of birth, mailing address and Social Security number; and~~

~~(ii) Pay all appropriate fees, as listed in WAC 296-46B-909;~~

~~(b) RCW 19.28.191 (1)(d) through (e);~~

~~(i) Submit an original master electrician certification examination application including: Date of birth, mailing address and Social Security number; and~~

~~(ii) Pay all appropriate fees, as listed in WAC 296-46B-909; or~~

~~(c) RCW 19.28.191 (1)(f) through (g);~~

~~(i) Submit an original electrician certification examination application including: Date of birth, mailing address and Social Security number; and~~

~~(ii) Pay all appropriate fees, as listed in WAC 296-46B-909.~~

~~(9) An individual's original electrician certificate of competency will expire on their birth date at least two years, and not more than three years, from the date of original issue.~~

~~Renewal — Master electrician, journeyman, and specialty electrician certificates of competency.~~

~~(10) An individual must apply for renewal of their electrician certificate of competency on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years.~~

~~(11) An individual may renew their certificate of competency within ninety days after the expiration date without~~

reexamination if the individual pays the late renewal fee listed in WAC 296-46B-909.

(12) All applications for renewal received more than ninety days after the expiration date of the certificate of competency require that the electrician pass the appropriate competency examination before being recertified.

(13) All applicants for certificate of competency renewal must:

(a) Submit a complete renewal application;

(b) Pay all appropriate fees; and

(c) Provide accurate evidence on the renewal form that the individual has completed the continuing education requirements described in WAC 296-46B-970. Continuing education classes are only valid when all the requirements of WAC 296-46B-970 are completed. If an individual files inaccurate or false evidence of continuing education information when renewing a certificate of competency, the individual's certificate of competency may be suspended or revoked.

Continuing education for pump and irrigation ~~(03)~~ and domestic pump ~~(03A)~~ electricians may be comprised of fifty percent electrical and fifty percent plumbing instruction.

(14) An individual who has not completed the required hours of continuing education can renew a certificate of competency if the individual applies for renewal before the certificate of competency expires and pays the appropriate renewal fee. However, the certificate of competency will be placed in an inactive status. The inactive certificate of competency will be returned to current status upon validation, by the department, of the required continuing education. If the certificate renewal date occurs during the inactive period, the certificate must be renewed on or before the renewal date to allow the return to current status.

(15) An individual may renew a suspended certificate of competency by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(16) An individual may not renew a revoked certificate of competency.

Military/shipyard experience.

(17) An individual who has worked in the electrical construction trade performing work described in WAC 296-46B-920 while serving in the armed forces of the United States may be eligible to take the examination for the certificate of competency as a journeyman or specialty electrician. Credit may be allowed for hours worked or training received.

If an individual has military experience in a specialized electrical field (e.g., rating) that is similar to a specialty electrician category listed in WAC 296-46B-920, credit may be allowed toward the appropriate specialty certificate. Nuclear, marine, shipyard, shipboard, radar, weapons, aeronautical experience, or similar experience may be acceptable for no more than fifty percent of the minimum required work experience for qualifying for electrician examination.

The department will evaluate and determine whether the submitted experience is related specifically to the electrical construction/maintenance trade regulated by chapter 19.28 RCW.

Experience in another country.

(18) If an individual has a journeyman electrician certificate from a country outside the United States that requires that at least four years of electrical construction training and certification is obtained by examination, the individual may be eligible for four thousand hours of the specialty credit allowed towards the qualification to take the Washington journeyman electrician examination.

No more than two years of the required training to become a Washington journeyman electrician may be for work described for specialty electricians or technicians in WAC 296-46B-920. In addition to the maximum of four thousand hours credit that may be allowed by this subsection, an additional four thousand hours of new commercial/industrial experience must be obtained using a training certificate in the state while under the supervision of a master journeyman electrician or journeyman electrician.

Documentation substantiating the individual's out-of-country experience must be submitted in English.

(19) Out-of-country experience credit is not allowed toward a specialty electrician certificate.

Training school credit.

(20) No more than fifty percent of the minimum work experience needed to qualify for specialty electrician certification is allowed for any training school program (e.g., a specialty requiring two thousand hours of minimum required work experience may receive no more than one thousand hours credit from an electrical construction training program).

(21) See RCW 19.28.191 (1)(h) for training school credit allowed for journeyman applicants.

(22) See WAC 296-46B-971 for additional information on training schools.)

NEW SECTION

WAC 296-46B-942 Training certificate required.

General.

(1) To work in the electrical construction trade as an electrical trainee, an individual must possess, wear, and visibly display a current valid electrical training certificate, learning the trade in the proper ratio, per RCW 19.28.161, under the supervision of a certified master journeyman electrician, journeyman electrician, master specialty electrician working in their specialty, or specialty electrician working in their specialty.

The trainee must meet all the requirements of WAC 296-46B-940 related to visibly displaying a current certificate and having a valid photo identification on his/her person.

(2) A training certificate is required for all individuals throughout the individual's enrollment and matriculation in an approved construction electrician training school program described in RCW 19.28.191. A training certificate is required to work in the electrical construction trade if an individual does not:

(a) Possess a current journeyman certificate of competency issued by the department;

(b) Possess a current specialty electrician certificate of competency issued by the department while working in that specialty's scope of work; or

(c) Is not working in exempt status as allowed by chapter 19.28 RCW.

(3) Trainees who have had their training certificates revoked or suspended (during the duration of the revocation or suspension) will not be issued a training certificate.

Original training certificates.

(4) The department will issue an original training certificate when the trainee applicant submits a complete training certificate application including:

(a) Date of birth, mailing address, Social Security number; and

(b) All appropriate fees as listed in WAC 296-46B-909.

All applicants for an electrical training certificate must be at least sixteen years of age. The original training certificate will be valid for two years.

(c) If an individual has previously held an electrical training certificate, then that individual is not eligible for a subsequent original training certificate.

Specialty specific - Zero percent and seventy-five percent supervision modified training certificates.

(5) For specialties as allowed in Table 945-1 (i.e., specialties with seven hundred twenty minimum hours of work experience required to be eligible for examination):

(a) The department will approve the trainee to take the appropriate specialty competency examination necessary to qualify for a zero percent supervision modified training certificate. To qualify, the trainee applicant must submit a complete zero percent supervision modified training certificate application including:

(i) Date of birth, mailing address, Social Security number;

(ii) Affidavit of experience fulfilling the minimum work experience hours required to qualify for the specialty examination described in Table 945-1; and

(iii) All appropriate fees as listed in WAC 296-46B-909.

Upon successful completion of the appropriate examination, the trainee will be issued a nonrenewable zero percent supervision modified training certificate for the appropriate specialty. The zero percent supervision modified training certificate will be restricted in duration to the time allowed in Table 945-1, note 2.

(b) Prior to the expiration of the zero percent supervision modified training certificate, the individual must submit a complete application for a seventy-five percent supervision modified training certificate for the appropriate specialty including:

(i) Seventy-five percent supervision training certificate application including: Date of birth, mailing address, Social Security number; and

(ii) All appropriate fees as listed in WAC 296-46B-909.

(c) A trainee may possess multiple (i.e., in different specialties) modified supervision training certificates for specialties where reduced supervision is allowed in Table 945-1. Combination training certificates will not be issued.

Renewal of training certificates.

(6) An individual must apply for renewal of their training certificate on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for two years.

(7) An individual may renew their training certificate after the expiration date if the individual pays the late renewal fee listed in WAC 296-46B-909.

(8) All applicants for training certificate renewal must:

(a) Submit a complete renewal application;

(b) Pay all appropriate fees; and

(c) Provide accurate evidence on the renewal form that the individual has completed the continuing education requirements described in WAC 296-46B-970. Basic trainee classes are only valid when all the requirements of WAC 296-46B-970 are completed. If an individual files inaccurate or false evidence of basic trainee class information when renewing a training certificate, the individual's training certificate may be suspended.

Basic trainee classes for trainees seeking pump and irrigation (03) and domestic pump (03A) experience credit may be comprised of fifty percent electrical and fifty percent plumbing instruction.

(d) Within thirty days after renewing an electrical training certificate, the individual, if not enrolled in a department approved apprenticeship program, must submit a completed, signed, and notarized affidavit(s) of experience for all hours of experience gained since the individual's last training certificate was effective.

Employers are required to provide the necessary documentation and signed affidavit of experience to the trainee within twenty days after the trainee requests the affidavit. See WAC 296-46B-942(12). See WAC 296-46B-985(4) for the penalty for providing a false or inaccurate affidavit of experience. If the individual is enrolled in a department approved apprenticeship program, the program may submit the required affidavit(s) of experience upon the individual's completion of the required experience hours without cost to the individual. The affidavit of experience must accurately attest to:

(i) The electrical installation work performed for each employer the individual worked for in the electrical trade during the previous period;

(ii) The correct electrical category the individual worked in; and

(iii) The actual number of hours worked in each category under the proper supervision of a Washington certified, master journeyman electrician, journeyman electrician or appropriate master specialty electrician or specialty electrician under that specific training certificate. If a trainee possesses multiple training certificates, an affidavit must be submitted for each training certificate for the hours worked under that specific training certificate.

If the individual is enrolled in a department approved apprenticeship program, the program may submit the required affidavit(s) of experience upon the individual's completion of the required experience hours without cost to the individual.

(9) An individual who has not completed the required hours of basic trainee class education can renew a training certificate if the individual applies for renewal before the training certificate expires and pays the appropriate renewal fee. However, the training certificate will be placed in an inactive status. The inactive training certificate will be returned to current status upon validation, by the department, of the required basic trainee class education.

(10) An individual may renew a suspended training certificate by submitting a complete renewal application including obtaining and submitting the basic trainee class education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(11) An individual will not be issued a renewed or reinstated training certificate if the individual owes the department money as a result of an outstanding final judgment.

(12) The individual should ask each employer and/or apprenticeship training director for an accurately completed, signed, and notarized affidavit of experience for the previous certification period. The employer(s) or apprenticeship training director(s) must provide the previous period's affidavit of experience to the individual within twenty days of the request. If an individual is enrolled in an approved electrical construction trade apprenticeship program under chapter 49.04 RCW when the individual renews an electrical training certificate, the individual and their apprenticeship training director and/or each employer must give the department an accurately completed, signed, and notarized affidavit of experience accurately attesting to:

(a) The electrical installation work the individual performed in the electrical trade during the previous certification period;

(b) The correct electrical category the individual worked in; and

(c) The actual number of hours worked in each category under the proper supervision of a Washington certified master journeyman electrician, journeyman electrician or appropriate master specialty or specialty electrician for each employer. For apprentices enrolled in a registered apprenticeship program, the applicant and the training director are the only authorized signatures the department will accept on affidavits of experience.

(13) The individual and their employer(s) and/or apprenticeship training director(s) must sign and have notarized the affidavit of experience attesting to the accuracy of all information contained in the affidavit.

(14) The trainee, supervising electrician, contractor, and assigned administrator or master electrician are responsible for ensuring compliance with subsection (13) of this section. See WAC 296-46B-985 and 296-46B-990 (3)(c) and (f) for information about failing to submit or submitting false/fraudulent documents. Falsifying documents may be considered perjury and might result in criminal prosecution, civil penalty, or certificate revocation or suspension.

Trainees without supervision present on the job site.

(15) When the supervising electrician is found to not be present on the job site, the trainee will be given a form by the inspector that must be fully completed and returned or post-marked within twenty-four hours to the inspector. The super-

vising electrician must sign the statement for the trainee if appropriate supervision was provided. If the supervising electrician fails or refuses to assist the trainee in completing the form, the trainee must return the form with a signed and dated statement stating the supervising electrician's name and saying that the supervising electrician refused to assist.

Trainees seeking a journeyman electrician certificate - Working with no supervision.

(16) Trainee seeking a general (01) journeyman electrician certificate of competency. After review by the department, a trainee may be issued a six-month, nonrenewable unsupervised electrical training certificate that will allow the individual to work without supervision if the trainee:

(a) Has submitted a complete application for an unsupervised electrical training certificate;

(b) Has worked over seven thousand hours properly supervised not to include more than four thousand of specialty experience;

(c) Has successfully completed or is currently enrolled in an approved apprenticeship program or an electrical construction trade program in a school approved by the board of community and technical colleges;

(d) Has paid all appropriate training certificate fees listed in WAC 296-46B-909; and

(e) Is currently working for and continues to work for a licensed electrical contractor that employs at least one certified journeyman or specialty electrician in the appropriate specialty.

Trainees seeking certain specialty electrician certificates - Working with reduced or no supervision.

(17) After review by the department, a trainee may be issued a nonrenewable zero percent supervision training certificate that will allow the individual to work without supervision if the trainee meets the requirements in subsection (4) of this section.

(18) Electrical trainees may work unsupervised when installing HVAC/R thermostat cable when the HVAC/R system consists of a single thermostat in one- and two-family dwelling units where line voltage power has not been connected to the dwelling's electrical system.

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-945 Qualifying for master, journeyman, specialty electrician examinations. (~~Qualifying for master, journeyman, specialty electrician examinations.~~)

(1) General.

~~((+))~~ (a) All applicants must be at least sixteen years of age.

(b) All applicants, from in or out of state, must demonstrate the completion of basic trainee classes described in WAC 296-46B-970 (4)(c)(ii)(D).

(i) Twenty-four hours where two thousand or more; but less than four thousand hours of work experience is required.

(ii) Forty-eight hours where four thousand or more; but less than six thousand hours of work experience is required.

(iii) Seventy-two hours where six thousand or more; but less than eight thousand hours of work experience is required.

(iv) Ninety-six hours where eight thousand or more of work experience is required.

Qualifying for the master electrician examination.

(2) An individual may take the master electrician's certificate of competency examination if the individual meets the requirements described in RCW 19.28.191 (1)(d) or (e).

Qualifying for the master electrician examination from out-of-state.

(3) No credit may be applied from out-of-state toward qualifying for a master electrician certificate of competency examination.

Qualifying for the journeyman electrician competency examination.

(4) An individual may take the journeyman electrician's certificate of competency examination if the individual held a current electrical training certificate and has worked for an employer who employs at least one certified master electrician, journeyman, or specialty electrician on staff and the individual:

(a) Has been employed, in the electrical construction trade, under the direct supervision of a master electrician, journeyman electrician or specialty electrician working in the appropriate specialty in the proper ratio, per RCW 19.28.161, for four years (eight thousand hours). Of the eight thousand hours:

(i) At least two years (four thousand hours) must be in new industrial and/or new commercial electrical installation (excluding all work described for specialty electricians or technicians) under the direct supervision of a master journeyman electrician or journeyman electrician while working for a general electrical contractor; and

(ii) Not more than a total of two years (four thousand hours) may be for work described as an electrical specialty in WAC 296-46B-920(2).

(b) Has completed a four-year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council while working under the direct supervision of a master journeyman or journeyman electrician in the proper ratio, per RCW 19.28.161; or

(c) Has completed a two-year electrical construction training program as described in RCW 19.28.191 for journeyman electricians, and two years (four thousand hours) of work experience in new industrial and/or new commercial electrical installations (excluding work described for specialty electricians or electrical technicians) under the direct supervision of a journeyman electrician while working for a general electrical contractor in the proper ratio, per RCW 19.28.161. See WAC 296-46B-971 for additional training school information.

Electrical construction training hours gained in specialties requiring less than two years (i.e., four thousand hours) will not be credited towards qualification for journeyman electrician.

The trainee and their employer and/or apprenticeship training director must attest to the accuracy of all information contained on affidavits of experience and apprenticeship graduation certificates used to verify eligibility for the examination.

Qualifying for a specialty electrician certificate of competency or examination.

(5) After review and approval by the department, an individual may qualify for a specialty electrician's examination and certificate of competency if the individual held a current electrical training certificate, and has worked for an employer who employs at least one certified master journeyman electrician, journeyman electrician, appropriate master specialty electrician, or appropriate specialty electrician on staff and the individual:

(a) Has been employed, in the electrical construction trade, under the direct supervision of an appropriate electrician in the appropriate specialty as follows:

Table 945-1 Experience Hours

<u>Specialty</u>	<u>Minimum Hours of Work Experience Required to be Eligible for Examination⁽⁴⁾⁽⁵⁾</u>	<u>Minimum Hours of Work Experience Required for Certification</u>
<u>Residential certificate (02)</u>	<u>4,000⁽³⁾</u>	<u>4,000</u>
<u>Pump and irrigation certificate (03)</u>	<u>4,000⁽³⁾</u>	<u>4,000</u>
<u>Domestic pump certificate (03A)</u>	<u>720⁽¹⁾⁽²⁾</u>	<u>2,000⁽⁶⁾</u>
<u>Signs certificate (04)</u>	<u>4,000⁽³⁾</u>	<u>4,000</u>
<u>Limited energy system certificate (06)</u>	<u>4,000⁽³⁾</u>	<u>4,000</u>
<u>HVAC/refrigeration system certificate (06A)</u>	<u>4,000⁽³⁾</u>	<u>4,000⁽⁷⁾</u>
<u>HVAC/refrigeration – Restricted (06B)</u>	<u>1,000⁽¹⁾⁽²⁾</u>	<u>2,000⁽⁶⁾</u>
<u>Nonresidential maintenance certificate (07)</u>	<u>4,000⁽³⁾</u>	<u>4,000</u>
<u>Nonresidential lighting maintenance and lighting retrofit certificate (07A)</u>	<u>720⁽¹⁾⁽²⁾</u>	<u>2,000⁽⁶⁾</u>
<u>Residential maintenance certificate (07B)</u>	<u>720⁽¹⁾⁽²⁾</u>	<u>2,000⁽⁶⁾</u>
<u>Restricted nonresidential maintenance certificate (07C)</u>	<u>1,000⁽¹⁾⁽²⁾</u>	<u>2,000⁽⁶⁾</u>

Specialty	Minimum Hours of Work Experience Required to be Eligible for Examination^{(4),(5)}	Minimum Hours of Work Experience Required for Certification
<u>Appliance repair certificate (07D)</u>	<u>720^{(1),(2)}</u>	<u>2,000⁽⁶⁾</u>
<u>Equipment repair certificate (07E)</u>	<u>1,000^{(1),(2)}</u>	<u>2,000⁽⁶⁾</u>
<u>Door, gate, and similar systems certificate (10)</u>	<u>720^{(1),(2)}</u>	<u>2,000⁽⁶⁾</u>

Notes: ⁽¹⁾Until the examination is successfully completed, the trainee must work under one hundred percent supervision. Once the appropriate examination is successfully completed, the modified supervision trainee may work under zero percent supervision.

⁽²⁾The trainee may have only one zero percent supervision certificate in a specialty (valid for no more than two years). If the trainee has not gained the required work experience by the time the zero percent supervision certificate has expired, the trainee must get a seventy-five percent supervision certificate and work under supervision until all required work experience hours are gained and credited towards the minimum work experience requirement.

⁽³⁾This specialty is not eligible for unsupervised trainee status as allowed in chapter 19.28 RCW.

⁽⁴⁾The trainee and their employer and/or apprenticeship training director must attest to the accuracy of all information contained on affidavits of experience used to verify eligibility for the examination.

⁽⁵⁾Neither previous work experience credit nor training school credit is allowed as a substitute for the initial hours of minimum work experience required to be eligible for examination unless the trainee's work experience hours under direct supervision are provided as required in RCW 19.28.191 (1)(g)(ii).

⁽⁶⁾Electrical construction training hours gained in specialties requiring less than two years for certification may not be credited towards qualification for journeyman electrician.

⁽⁷⁾The two thousand minimum hours of work experience required for certification as an HVAC/refrigeration-restricted (06B) specialty electrician may be credited as two thousand hours towards the four thousand minimum hours of work experience required for certification as an HVAC/refrigeration (06A) specialty electrician. Hours of work experience credited from the HVAC/refrigeration-restricted (06B) specialty cannot be credited towards qualification for taking the general electrician (01) examination or minimum work experience requirements.

⁽⁸⁾Experience hours may be coincidentally credited towards qualifying for electrician and plumber certifications. See RCW 19.28.191 (1)(g)(iv).

(b) Or has completed an appropriate two-year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council while working under the direct supervision of an electrician in the appropriate specialty in the proper ratio, per RCW 19.28.161.

Qualifying for a certificate of competency when the Washington electrical work experience is exempt from certification requirements in RCW 19.28.261.

(6) After review and approval by the department, an individual may be granted work experience credit to take the journeyman/specialty electrician's competency examination when an original notarized letter of work experience accompanied by verifiable documentation - See subsection (7) of this section.

For the purposes of this section, exempt work does not include work performed on property owned, in whole or part, by the individual seeking credit.

All exempt individuals must have a valid electrical training certificate when working to gain electrical work experience.

Work experience requested by an individual for telecommunications work must be gained while working for (01) general electrical, (02) residential, or (06) limited energy system electrical contractors as allowed by those scopes of work. When the work was performed, the individual must have a valid training certificate, be under the supervision of an appropriately certified journeyman, residential or limited energy electrician, and be in compliance with RCW 19.28.191.

General - Qualifying hours gained by applicants seeking work experience credit without a Washington electrician training certificate.

(7) The type of on-the-job work experience must be similar to the credit being applied for and lawfully gained in the state or other entity where the work was performed. The individual must submit verifiable documentation (e.g., payroll, time sheets, permits, supervision, etc.) that the department may use to ascertain the type of work performed and the number of hours worked for each type (i.e., specialty) of work.

Training hours credited for specialties requiring less than two years (i.e., four thousand hours) may not be credited towards qualification for general journeyman electrician.

The documentation must include a complete description of the individual's usual duties with percentages attributed to each type (e.g., wiring, material handling, shop, low voltage, etc.)

The department may reduce the number of hours allowed if the:

- (a) Individual did not have supervision during the training period;
- (b) Training hours are not related to electrical construction;
- (c) Training hours are not related to the specialty being applied for;
- (d) Documentation submitted by the individual does not fully verify the requested work experience; or
- (e) Work credit was not lawfully gained.

Training school credit.

(8) No more than fifty percent of the minimum work experience needed to qualify for specialty electrician certification is allowed for any training school program (e.g., a specialty requiring two thousand hours of minimum required work experience may receive no more than one thousand hours credit from an electrical construction training program).

See RCW 19.28.191 (1)(h) for training school credit allowed for journeyman applicants.

See WAC 296-46B-971 for additional information on training schools.

Qualifying for the journeyman/specialty electrician competency examination when work was performed in a state requiring electrician certification.

~~((5))~~ (9) After review and approval by the department, an individual may be granted on-the-job work experience towards qualifying to take the journeyman/specialty electrician's competency examination for hours worked in the other state when the ~~((appropriate))~~ state ~~((having authority))~~ certifies to the department ~~((that))~~:

(a) The type and number of hours of work performed within the state. Credit will not be allowed for work not done within the certifying state.

(b) That the work was legally performed under the other state's licensing and certification requirements; and

((i) For journeyman applicants who meet the minimum hour requirements described in WAC 296-46B-945(4).

(ii) For specialty applicants who meet the minimum hour requirements described in WAC 296-46B-945(9).

~~((b))~~ (c) The other state's certificate of competency was obtained by examination.

((Electrical construction training hours gained in specialties requiring less than two years (i.e., four thousand hours) may not be credited towards qualification for journeyman electrician.)) If the experience is for other than a new commercial or industrial installation, the individual must identify the specialty credit desired and provide verifiable documentation identifying the other state's allowed scope of work for the specialty, see subsection (7) of this section.

Qualifying for the journeyman/specialty electrician competency examination when work was performed in a state that does not require electrician certification.

~~((6))~~ (10) After review and approval by the department, an individual may be granted work experience credit to take the journeyman/specialty electrician's competency examination when an original notarized letter of work experience accompanied by documentation, see subsection (7) of this section, that can be used to verify the individual has worked the hours being requested is provided by:

(a) An ~~((individual may take the journeyman/specialty electrician's competency examination when an appropriately licensed electrical contractor(s), registered apprenticeship training director, or nationally recognized contractor or labor organization files a notarized letter of experience with the department accompanied by payroll documentation which certifies and shows that:~~

(i) For journeyman applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(4).

(ii) For specialty applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(9).

(b) An individual may take the journeyman/specialty electrician's competency examination when an employer(s),

acting under a property owner exemption, files a notarized letter of experience from the property owner with the department accompanied by payroll documentation which certifies and shows that:

(i) For journeyman applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(4).

(ii) For specialty applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(9).

(7) If the other state does not require electrical contractor licensing or registration: An individual may take the journeyman/specialty electrician's competency examination when the individual's employer(s), registered apprenticeship training director, or nationally recognized contractor or labor organization files a notarized letter(s) of experience with the department accompanied by payroll documentation which certifies and shows that:

(a) For journeyman applicants: The individual meets the minimum work requirements described in WAC 296-46B-945(4).

(b) For specialty applicants: The individual meets the minimum work requirements described in WAC 296-46B-945(9).

(8) The letter of experience described in subsections (6) and (7) of this section should include a complete list of the individual's usual duties with percentages attributed to each.

Qualifying for a specialty electrician certificate of competency or examination.

(9) An individual may qualify for a specialty electrician's examination and certificate of competency if the individual held a current electrical training certificate, and has worked for an employer who employs at least one certified master journeyman electrician, journeyman electrician, appropriate master specialty electrician, or appropriate specialty electrician on staff and the individual:

(a) Has been employed, in the electrical construction trade, under the direct supervision of an appropriate electrician in the appropriate specialty as follows:

Table 945-1 Experience Hours

Specialty	Minimum Hours of Work Experience Required to be Eligible for Examination ⁽⁴⁾⁽⁶⁾	Minimum Hours of Work Experience Required for Certification
Residential certificate (02)	4,000 ⁽³⁾	4,000
Pump and irrigation certificate (03)	4,000 ⁽³⁾	4,000
Domestic pump certificate (03A)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Signs certificate (04)	4,000 ⁽³⁾	4,000
Limited energy system certificate (06)	4,000 ⁽³⁾	4,000
HVAC/refrigeration system certificate (06A)	4,000 ⁽³⁾	4,000 ⁽⁷⁾
HVAC/refrigeration - restricted (06B)	1,000 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾

Table 945-1 Experience Hours

Specialty	Minimum Hours of Work Experience Required to be Eligible for Examination ⁽⁴⁾⁽⁵⁾	Minimum Hours of Work Experience Required for Certification
Nonresidential maintenance certificate (07)	4,000 ⁽²⁾	4,000
Nonresidential lighting maintenance and lighting retrofit certificate (07A)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Residential maintenance certificate (07B)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Restricted nonresidential maintenance certificate (07C)	1,000 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Appliance repair certificate (07D)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Equipment repair certificate (07E)	1,000 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Door, gate, and similar systems certificate (10)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾

- Notes:**
- ⁽¹⁾Until the examination is successfully completed, the trainee must work under one hundred percent supervision. Once the appropriate examination is successfully completed, the modified supervision trainee may work under zero percent supervision.
 - ⁽²⁾The trainee may have only one zero percent supervision certificate in a specialty (valid for no more than two years). If the trainee has not gained the required work experience by the time the zero percent supervision certificate has expired, the trainee must get a seventy-five percent supervision certificate and work under supervision until all required work experience hours are gained and credited towards the minimum work experience requirement.
 - ⁽³⁾This specialty is not eligible for unsupervised trainee status as allowed in chapter 19.28 RCW.
 - ⁽⁴⁾The trainee and their employer and/or apprenticeship training director must attest to the accuracy of all information contained on affidavits of experience used to verify eligibility for the examination.
 - ⁽⁵⁾Neither previous work experience credit nor training school credit is allowed as a substitute for the initial hours of minimum work experience required to be eligible for examination unless the trainee's work experience hours under direct supervision are provided as required in RCW 19.28.191 (1)(g)(ii).
 - ⁽⁶⁾Electrical construction training hours gained in specialties requiring less than two years for certification may not be credited towards qualification for journeyman electrician.
 - ⁽⁷⁾The 2,000 minimum hours of work experience required for certification as a HVAC/refrigeration-restricted **(06B)** specialty electrician may be credited as 2,000 hours towards the 4,000 minimum hours of work experience required for certification as a HVAC/refrigeration **(06A)** specialty electrician. Hours of work experience credited from the HVAC/refrigeration-restricted **(06B)** specialty cannot be credited towards qualification for taking the general electrician **(01)** examination or minimum work experience requirements.
 - ⁽⁸⁾Experience hours may be coincidentally credited towards qualifying for electrician and plumber certifications. See RCW 19.28.191 (1)(g)(v).

(b) Or has completed an appropriate two-year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council while working under the direct supervision of an electrician in the appropriate specialty in the proper ratio, per RCW 19.28.161.

Qualifying for a certificate of competency when the Washington electrical work experience is exempt from certification requirements in RCW 19.28.261.

(10) To receive credit for electrical work experience that is exempted in RCW 19.28.261, an individual must provide the department with verification from the employer or owner according to WAC 296-46B-965 (i.e., affidavit(s) of experience). For the purposes of this section, exempt work does not include work performed on property owned by the individual seeking credit.

(11) All exempt individuals learning the electrical trade must obtain an electrical training certificate from the department and renew it biennially in order to receive credit for hours worked in the trade according to WAC 296-46B-965.

(12) The department may require verification of supervision in the proper ratio from the certified supervising electrician(s):

(13) Telecommunications work experience:

(a) Credit may be verified only by employers exempted by RCW 19.28.261, general electrical **(01)** contractors, and limited energy system **(06)** electrical contractors for limited energy experience for telecommunications work done:

- (i) Under the supervision of a certified journeyman or limited energy electrician; and
- (ii) In compliance with RCW 19.28.191.

(b) Individuals who want to obtain credit for hours of experience toward electrician certification for work experience doing telecommunications installations must:

- (i) Obtain an electrical training certificate;
- (ii) Renew the training certificate biennially in order to receive credit for hours worked in the trade according to WAC 296-46B-965.

(c) Telecommunications contractors may not verify telecommunications work experience toward electrician certification.) appropriately state licensed electrical contractor:

- (b) Registered apprenticeship training director;
- (c) Nationally recognized contractor/labor organization;

or

(d) The individual's lawful employer.

Military/shipyard experience.

(11) After review and approval by the department, an individual who has worked in the electrical construction trade performing work described in WAC 296-46B-920 while serving in the armed forces of the United States may be eligible to take the examination for the certificate of competency as a journeyman or specialty electrician. Credit may be allowed for hours worked or training received.

If an individual has military experience in a specialized electrical field (e.g., rating) that is similar to a specialty electrician category listed in WAC 296-46B-920, credit may be allowed toward the appropriate specialty certificate. Nuclear, marine, shipyard, shipboard, radar, weapons, aeronautical experience, or similar experience may be acceptable for no

more than fifty percent of the minimum required work experience for qualifying for electrician examination.

The department will evaluate and determine whether the submitted experience is related specifically to the electrical construction/maintenance trade regulated by chapter 19.28 RCW.

Experience in another country.

(12) After review and approval by the department, and if an individual has a journeyman electrician certificate from a country outside the United States that requires that at least four years of electrical construction training and certification is obtained by examination, the individual may be eligible for four thousand hours of the specialty credit allowed towards the qualification to take the Washington journeyman electrician examination.

No more than two years of the required training to become a Washington journeyman electrician may be for work described for specialty electricians or technicians in WAC 296-46B-920. In addition to the maximum of four thousand hours credit that may be allowed by this subsection, an additional four thousand hours of new commercial/industrial experience must be obtained using a training certificate in the state while under the supervision of a master journeyman electrician or journeyman electrician.

Documentation substantiating the individual's out of country experience must be submitted in English.

(13) Out of country experience credit is not allowed toward a specialty electrician certificate.

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-960 Administrator and electrician certificate of competency examinations. General.

(1) The minimum passing score on any examination or examination section is seventy percent. If examination is requested to be administered by the department, an application is required and the examination must be successfully completed within one year of application or the individual must submit a new application for exam including all appropriate fees.

(2) All examinations are open book.

(a) Candidates may use:

(i) Any original copyrighted material;

(ii) A silent, nonprinting, nonprogrammable calculator that is not designed for preprogrammed electrical calculations;

(iii) Copies of chapter 19.28 RCW and this chapter; or

(iv) A foreign language dictionary that does not contain definitions.

(b) Candidates may not use:

(i) Copies of copyrighted material;

(ii) Copies of internet publications, except for RCWs or WACs;

(iii) Personal notes; or

(iv) A personal computing device of any type other than the calculator in (a)(ii) of this subsection.

(3) Administrator, master electrician, and electrician examinations may consist of multiple sections. For all

administrator examinations, all sections must be successfully completed within a one-year examination period after beginning the examination. For all master electrician and electrician examinations, all sections must be successfully completed within a one-year examination period beginning with the date of the examination approval. Within the one-year examination period, the candidate does not have to retake any sections successfully completed within the examination period. If all sections are not successfully completed within the one-year period, the candidate must begin a new examination period and retake all sections.

Special accommodations for examination.

(4) An applicant for an examination who, due to a specific physical, mental, or sensory impairment, requires special accommodation in examination procedures, may submit a written request to the chief electrical inspector for the specific accommodation needed.

(a) The applicant must also submit to the department a signed and notarized release, authorizing the specifically identified physician or other specialist to discuss the matter with the department representative. The applicant must also submit an individualized written opinion from a physician or other appropriate specialist:

(i) Verifying the existence of a specific physical, mental, or sensory impairment;

(ii) Stating whether special accommodation is needed for a specific examination;

(iii) Stating what special accommodation is necessary; and

(iv) Stating if extra time for an examination is necessary and if so, how much time is required. The maximum allowance for extra time is double the normal time allowed.

(b) The written request for special accommodation and individualized written opinion must be submitted to the department at least six weeks in advance of the examination date and must be accompanied by a completed application and fees as described in WAC 296-46B-909.

(c) Only readers and interpreters provided from the administrative office of the courts and/or approved by the department may be used for reading or interpreting the examination. The applicant will be required to bear all costs associated with providing any reading or interpretive services used for an examination.

(d) Applicants who pass the examination with the assistance of a reader or interpreter will be issued a certificate with the following printed restriction: "Requires reading supervision for product usage." A competent reader or interpreter must be present on any job site where a person with this restriction is performing electrical work as described in chapter 19.28 RCW.

Applicants who pass the examination with the assistance of a mechanical device (e.g., magnifier, etc.) will be issued a certificate with the following printed restriction: "Requires mechanical reading assistance for product usage." Appropriate mechanical reading assistance must be present on any job site where a person with this restriction is performing electrical work as described in chapter 19.28 RCW.

If a candidate successfully retakes the examination without the assistance of a reader or translator, a new certificate will be issued without the restriction.

(5) Applicants who wish to use a foreign language dictionary during an examination must obtain approval at the examination site prior to the examination. Only dictionaries without definitions will be approved for use.

Failed examination appeal procedures.

(6) Any candidate who takes an examination and does not pass the examination may request a review of the examination.

(a) The department will not modify examination results unless the candidate presents clear and convincing evidence of error in the grading of the examination.

(b) The department will not consider any challenge to examination grading unless the total of the potentially revised score would result in a passing score.

(7) The procedure for requesting an informal review of examination results is as follows:

(a) The request must be made in writing to the chief electrical inspector and must be received within twenty days of the date of the examination and must request a rescore of the examination. The written request must include the appropriate fees for examination review described in WAC 296-46B-909.

(b) The following procedures apply to a review of the results of the examination:

(i) The candidate will be allowed one hour to review their examination.

(ii) The candidate must identify the challenged questions of the examination and must state the specific reason(s) why the results should be modified with multiple published reference material supporting the candidate's position.

(iii) Within fifteen days of the candidate's review, the department will review the examination and candidate's justification and notify the candidate in writing of the department's decision.

~~((Subjects included in administrator certificate, or master electrician, journeyman, or specialty electrician competency examinations:~~

~~(8) The following subjects are among those that may be included in the examination for an administrator certificate or electrician certificate of competency. The list is not exclusive. The examination may also contain subjects not on the list.~~

~~(a) For general administrators, master journeyman, and journeyman electricians:~~

~~AC—Generator; 3-phase; meters; characteristics of; power in AC circuits (power factor); mathematics of AC circuits.~~

~~Administration—Chapter 19.28 RCW and this chapter.~~

~~Air conditioning—Basic.~~

~~Blueprints—Surveys and plot plans; floor plans; service and feeders; electrical symbols; elevation views; plan views.~~

~~Building wire.~~

~~Cable trays.~~

~~Calculations.~~

~~Capacitive reactance.~~

~~Capacitor—Types; in series and parallel.~~

~~Circuits—Series; parallel; combination; basic; branch; outside branch circuits; calculations.~~

~~Conductor—Voltage drop (line loss); grounded.~~

~~Conduit—Wiring methods.~~

~~DC—Generator; motors; construction of motors; meters.~~

~~Definitions—Electrical.~~

~~Electrical units.~~

~~Electron theory.~~

~~Fastening devices.~~

~~Fire alarms—Introduction to; initiating circuits.~~

~~Fuses.~~

~~Generation—Electrical principles of.~~

~~Grounding.~~

~~Incandescent lights.~~

~~Inductance—Introduction to; reactance.~~

~~Insulation—Of wire.~~

~~Mathematics—Square root; vectors; figuring percentages.~~

~~Motors/controls—Motors vs. generators/CEMF; single phase; capacitor; repulsion; shaded pole; basic principles of AC motors.~~

~~Ohm's Law.~~

~~Power.~~

~~Power factor—AC circuits; correction of; problems.~~

~~Rectifiers.~~

~~Resistance—Of wire.~~

~~Rigging.~~

~~Safety—Electrical shock.~~

~~Services.~~

~~3-wire system.~~

~~Tools.~~

~~Transformers—Principles of; types; single-phase; 3-phase connections.~~

~~Voltage polarity across a load.~~

~~Wiring methods—Conduit; general.~~

~~Wiring systems—Less than 600 volts; 480/277 volts; single and 3-phase delta or wye; distribution systems over 600 volts.~~

~~Note: The general administrator, master journeyman, and journeyman electrician examinations may also include the subjects listed below for specialty electrician examinations.~~

~~(b) For specialty administrators, master specialty and specialty electricians, the following subjects are among those that may be included in the examination. Examination subjects are restricted to those subjects related to the scope of work of the specialty described in WAC 296-46B-920. The list is not exclusive. The examination may also contain subjects not on the list.~~

~~AC—Meters.~~

~~Administration—Chapter 19.28 RCW and this chapter.~~

~~Appliance circuits or controls.~~

~~Blueprints—Floor plans; service and feeders.~~

~~Cables—Wiring methods.~~

~~Calculations.~~

~~Circuits—Series; parallel; combination; basic; outside branch.~~

~~Conductor—Voltage drop (line loss); grounded; aluminum or copper.~~

~~Conduit—Wiring methods.~~

~~Electrical signs, circuits, controls, or services.~~
~~Electrical units.~~
~~First aid.~~
~~Fuses.~~
~~General lighting.~~
~~Grounding of conductors.~~
~~Insulation of wire.~~
~~Limited energy circuits or systems.~~
~~Maintenance of electrical systems.~~
~~Mathematics – Figuring percentage.~~
~~Motor circuits, controls, feeders, or services.~~
~~Ohm's Law.~~
~~Overcurrent protection.~~
~~Resistance of wire.~~
~~Safety – Electrical shock.~~
~~Services.~~
~~Sizes of building wire.~~
~~3-wire system.~~
~~Tools.~~
~~Transformer – Ratios; single phase/3-phase connections.)~~

Failing an administrator certificate exam or electrician certificate of competency examination.

~~((9))~~ (8) Anyone failing an administrator or electrician competency examination may retake the examination by making arrangements with the testing agency and paying the retesting fee.

~~((10))~~ (9) If the individual makes a failing score, the individual must wait two weeks before being eligible to retest.

~~((11))~~ (10) If the individual fails an electrician examination or a part of an administrator or master electrician examination three times within a one-year period, the individual must wait three months to retake the failed portion of the examination.

~~((12))~~ (11) Anyone failing an electrician competency examination may continue to work in the electrical trade if they have a valid electrical training certificate and work under the direct supervision of a certified journeyman or specialty electrician in the proper ratio, per RCW 19.28.161.

Cheating on an examination.

~~((13))~~ (12) Anyone found cheating on an examination, attempting to bribe a proctor or other agent involved in administering an examination, or using inappropriate materials/equipment during an examination will be required to wait at least eleven months before being allowed to reexamine. All such reexaminations will be administered by the department in Tumwater, Washington and the candidate will be required to apply and schedule for the examination with the chief electrical inspector. The department may also file a civil penalty action under chapter 19.28 RCW.

Examination confidentiality.

(13) All examination questions are confidential. Examination candidates and persons who have taken an examination are not allowed to copy or otherwise make note of or share examination content, in any manner, outside the individual's examination environment. Examination candidates

must agree, prior to beginning an examination, to keep all examination content confidential. The department may also file a civil penalty action under chapter 19.28 RCW.

AMENDATORY SECTION (Amending WSR 11-12-018, filed 5/24/11, effective 6/30/11)

WAC 296-46B-970 Continuing education and classroom education requirements. (1) **DEFINITIONS** - For purposes of this section.

~~((a))~~ "Applicant" means the entity submitting an application for review.

~~((b))~~ "Application" means a submittal made by an applicant seeking instructor or class approval.

~~((c))~~ "Calendar day" means each day of the week, including weekends and holidays.

~~((d))~~ "Class" means continuing education or basic trainee class ~~(or course)~~.

~~((e))~~ "Contractor" means ~~the entity who has contracted with the department to review and approve/deny continuing education classes and instructors.~~

~~((f))~~ "Currently adopted code," for this section means the code adopted in WAC 296-46B-010(1) or any more recently published National Electric Code.

"Date of notification" means the date of a request for additional information from the ~~(contractor)~~ department or the approval/denial letter sent to the applicant by the ~~(contractor)~~ department.

~~((g))~~ "Examination" is any examination required by this section. Each examination must be unique and must provide randomized questions, except for classroom training. Each examination question bank must be at least two times larger than the number of questions in any individual examination. Examinations must not direct or point the individual to a correct answer or reference. Individuals must be responsible to determine the correct answer without the assistance of the sponsor. No more than twenty percent of an examination's questions may have a true/false answer. Competency is demonstrated by scoring at least seventy-five percent on the examination.

"Individual" means ~~((h))~~ a master electrician, administrator or electrician seeking credit for continuing education or a trainee seeking credit for basic trainee class for renewal or certification.

~~((i))~~ "Instructor" means an individual who is authorized to instruct an approved continuing education or basic trainee class.

~~((j))~~ "Working day" means Monday through Friday, excluding state of Washington holidays.

(2) GENERAL.

(a) The department and the electrical board have the right to monitor all approved classes without notice and at no charge.

If the department or electrical board determines that the class or instructor does not meet or exceed the minimum requirements for approval ~~((k))~~ course length, or instructor qualifications, the department may revoke the class and/or instructor approval and/or reduce the number of credited hours for the class.

(b) Department-offered classes and the instructors used for ~~((those))~~ department classes are automatically approved ~~((and do not need to be sent to the contractor for review))~~.

(c) Instructors who meet the minimum requirements using subsection ~~((5)(b)(i)(D))~~ (5)(d)(iv) of this section may only instruct classes sponsored by the manufacturer(s) who verified the instructors' qualifications ~~((under subsection (5)(b)(i)(D) of this section))~~.

(d) An individual will not be given credit for the same approved continuing education class taken more than once. A course sponsor may not submit an individual's name on a roster(s) for multiple classes (i.e., multiple class numbers) when the classes are given simultaneously (e.g., code update, industry related, and/or basic ~~((electrical classroom training))~~ trainee class that have similar class content given during the same class session). ~~((No))~~ Credit will not be granted for ~~((any))~~ a class that is not approved per this section.

~~((Telecommunications administrators do not require continuing educations:~~

~~((Other))~~ Electrical administrators, master electricians, and electricians:

(i) To be eligible for renewal of an administrator certificate, master electrician or electrician certificate of competency, the individual must have completed at least eight hours of approved continuing education for each year of the prior certification period. The individual is not required to take the classes in separate years.

(A) At least eight hours of the total required continuing education must be on the changes in the ~~((2008 National Electrical Code. For certificate renewal, "currently adopted" means a valid course approved as code update by the department and taken by the applicant since their last renewal date))~~ currently adopted code.

(B) Four hours of the required continuing education must be on the currently adopted chapter 19.28 RCW and/or its related WAC~~((s))~~.

(ii) An individual changing an electrical administrator and an electrician certificate of competency into a master electrician's certificate of competency as allowed in RCW 19.28.191 (1)(a) or (b) must have completed at least eight hours of approved continuing education for each year of the electrician's prior ~~((electrician))~~ certificate period. The individual is not required to take the classes in separate years.

(A) At least eight hours of the total required continuing education must be on the changes in the currently adopted ~~((National Electrical))~~ code. ~~((For certificate renewal, "currently adopted" means a valid course approved as code update by the department and taken by the applicant since their last renewal date.))~~

(B) Four hours of the required continuing education must be on the currently adopted chapter 19.28 RCW and/or its related WAC~~((s))~~.

(iii) Any portion of a year of a prior administrator or electrician certificate period is equal to one year for the purposes of the required continuing education~~((s))~~.

(iv) An individual who has both an electrician certificate and an administrator certification may use the same class to fulfill the requirements for continuing education.

~~((g))~~ (f) Training certificates:

(i) To be eligible for renewal of a training certificate, the individual must have completed:

(A) ~~((Effective July 1, 2011,))~~ At least thirty-two hours of approved basic ~~((classroom electrical training))~~ trainee classes and effective July 1, 2013, at least forty-eight hours of approved ~~((electrical training))~~ basic trainee classes. The individual cannot use a basic ~~((classroom electrical training))~~ trainee class as credit for the continuing education requirements for renewing an electrician or administrator certificate(s) when the class is also used to satisfy the training certificate renewal requirements; or

(B) Equivalent electrical training classes taken as a part of an approved:

- Apprenticeship program under chapter 49.04 RCW; or
- Electrical training program under RCW 19.28.191

(1)(h).

Equivalent classes must be submitted to and approved by the chief electrical inspector thirty calendar days prior to offering the class.

(ii) ~~((Note that))~~ Only trainees seeking experience credit in the pump and irrigation (03) or domestic pumping (03A) specialties may ~~((take))~~ receive credit for pumping industry basic ~~((classroom training))~~ trainee classes;

~~((In addition,))~~ Trainees working in the pump and irrigation (03) or domestic pump (03A) specialties may be credited for courses approved as a part of the requirements for plumber trainees required in RCW 18.106.070(5).

~~((h))~~ (g) A continuing ~~((education))~~ or basic trainee class attended or completed by an individual before the class's effective date cannot be used to meet the certificate renewal/certification requirements.

~~((i) If neither the electrical board nor the department has a contract in effect as described in this section, the department may, at its option, elect to act as the contractor. If a contractor is not in place and the department elects not to act as the contractor, the electrical board will act as the contractor. If either the electrical board or the department acts as the contractor, the following will apply:~~

~~((i) The fee for class or instructor submittal is as set in WAC 296-46B-909.~~

~~((ii) The electrical board or the department will:~~

~~((A) Review the application for completeness within fifteen working days after receipt.~~

~~((B) If the application is incomplete, notify the applicant within seven working days of the status of the review and what additional information is required.~~

~~((C) Complete the review and approval/denial process within fifteen working days upon receipt of a complete application or additional requested information.~~

~~((iii) An appeal of a denial by the department will be heard by the full electrical board in accordance with WAC 296-46B-995.))~~

(3) CLASS AND INSTRUCTOR - GENERAL APPROVAL PROCESS.

(a) The ~~((contractor))~~ department will ~~((review submitted class and instructor applications to determine whether the application meets the minimum requirements for approval.))~~

(i) Review the application for completeness and conformance with the requirements in this section.

(ii) If the application is incomplete, notify the applicant within seven working days of the status of the review and if additional information is required.

(iii) Complete the review and approval/denial process within fifteen working days upon receipt of a complete application or additional requested information.

(b) The ~~((contractor))~~ department will deny approval of applications that do not meet the minimum requirements.

(c) All applications will be considered to be new applications (i.e., Classes and instructors may not be renewed. All applications must include all information necessary to show conformance with the minimum requirements).

(d) ~~((Minimum requirements:~~

~~(i) Application review fees:~~

~~(A) The contractor may charge a fee for review of an application. Such fees, paid by the applicant, are nonrefundable.~~

~~(B) The fee will be as set by contractor between the department and the contractor.~~

~~(C) The fee will be set for a minimum of one year.~~

~~(D) Upon mutual agreement between the department and the contractor, the fee may be raised or lowered.~~

~~((ii)) Application process:~~

~~((A)) (i) The applicant must submit a complete application to the ~~((contractor))~~ department at least thirty calendar days prior to offering or instructing a class.~~

~~((B)) (ii) The ~~((contractor))~~ department will only consider material included with the application when reviewing an application.~~

~~((C)) (iii) All applications ~~((will consist of))~~ must include:~~

~~((One copy of all material;~~

~~*) (A) Applicant's name, address, contact name, e-mail address, and telephone number;~~

~~((*) (B) All required fees;~~

~~((Any other information the applicant wants to consider during the review; and~~

~~*Class applications will include:~~

~~—Sponsor's name, address, contact name, and telephone number;~~

~~—Class title;~~

~~—Number of continuing education hours requested for the class;~~

~~—Category of class for which approval is sought (i.e., code update, RCW/WAC update, industry related, basic classroom electrical training, pumping industry, or pumping industry basic classroom training);~~

~~—Any required examinations;~~

~~—Statement of whether the class is open to the public;~~

~~—Class syllabus (e.g., general description of the training, specific NEC articles referenced, time allowed for various subject matter, etc.). Note that for all pumping industry classes, curriculum must include fifty percent electrical and fifty percent plumbing instruction;~~

~~—List of resources (e.g., texts, references, etc.);~~

~~—Copies of all visual aids;~~

~~—Sample of the completion certificate.~~

~~*Instructor application will include:~~

~~—Instructor's name, address, telephone number;~~

~~—Copies of credentials or other information showing conformance with the instructor minimum qualifications.~~

~~*The sponsor of a distance learning (i.e., correspondence and internet classes) class will provide the following information with the application:~~

~~—How will the sponsor provide an orientation session with the instructor or an affiliated representative of the sponsor.~~

~~—The application must include a complete description of any hardware, software, or other technology to be used by the provider and needed by the student to effectively engage in the delivery and completion of the class material. Provide an assessment of the availability and adequacy of the equipment, software, or other technologies. In the case of computer-based instruction, describe how the class software addresses automatic shutdown after a period of inactivity.~~

~~—How will the sponsor provide security to ensure that the student who receives credit for the class is the student who enrolled in and completed the class. The approved sponsor and the student must certify that the student has completed the class and the required number of clock hours.~~

~~—The application must describe the process and the acceptable methods of how students can contact approved instructors to answer questions regarding the class.~~

~~—The application must describe the consistent and regular interactive events appropriate to the delivery method. The interactive elements must be designed to promote student involvement in the learning process and must directly support the student's achievement of the class learning objectives.~~

~~—The application must demonstrate that the class includes the same or reasonably similar information content as a course that would otherwise qualify for the requisite number of clock hours of classroom-based instruction.~~

~~—The application must demonstrate how you determined the number of clock hours requested.~~

~~—The application must demonstrate how mastery of the material is provided by: Describing how the material is divided into major learning units and describing how these learning units are divided into modules of instruction; describing how the student's progress toward completion of the mastery requirement will be measured, and describing how the class will provide a mechanism of individual remediation to correct any deficiencies in each module of instruction.)~~

~~(e) ~~((Contractor's))~~ Review process:~~

~~(i) When the application is received~~((, the contractor must))~~:~~

~~(A) ~~((Date stamp the application;~~~~

~~(B) Review the application for completeness within seven working days after receipt.~~

~~((ii)) The department must review the application for completeness within seven working days after receipt.~~

~~(B) If the application is incomplete, the ~~((contractor))~~ department must, within two working days, notify the applicant of the status of the review and what additional information is required.~~

~~((A)) *~~ The applicant must provide any additional information requested by the ~~((contractor))~~ department within five working days after the date of notification.

~~((B))~~ • The ~~((contractor))~~ department will deny the application if the additional required information is not received within the five working days after the date of notification for additional information.

~~((iii))~~ When the contractor has received a complete application, the contractor must review and evaluate the application for compliance with the minimum requirements.)

(C) The ~~((contractor))~~ department must complete the review and approval/denial process within ~~((seven))~~ fifteen working days upon receipt of a complete application or additional requested information and within two working days notify(~~(=~~

• ~~The applicant in writing; and~~
 • ~~The chief electrical inspector in writing and electronically. The contractor's electronic notification to the chief electrical inspector must be made in a format approved by the chief electrical inspector.~~

~~((iv))~~ the applicant of the approval/denial in writing or electronically.

(ii) A notification of denial must include:

- (A) Applicant's name and telephone number;
- (B) Date of denial;
- (C) Sponsor's name and class title if applicable;
- (D) Instructor's name if applicable; and
- (E) The reason for denial.

~~((v))~~ (iii) A notification of approval:

- (A) For classes must include:
 - Applicant's name and telephone number;
 - Sponsor's name and telephone number;
 - Sponsor number;
 - Class title;
 - Class number;
 - Number of hours approved for the class. ~~((Note that the~~

~~contractor))~~ The department may reduce the hours requested in the application if the review shows that the requested number of hours is excessive;

- Effective date for this class;
- Expiration date of class;
- Category for which the class is approved (i.e., code update, RCW/WAC update, industry related, basic ~~((classroom electrical training))~~ trainee class, pumping industry, or pumping industry ~~((basic classroom training))~~ trainee class); ~~((Sample of written class roster and attendance sheet;))~~
- Type of class (i.e., classroom, correspondence, internet); and

• Whether the class is open to the public.

(B) For instructors, must include:

- Applicant's name and telephone number;
- Instructor's name and telephone number;
- Effective date for the approval; and
- Expiration date of the approval.

~~((vi))~~ Applicant's request for review of the contractor's decision;

(iv) The ((applicant's)) applicant may request a review, by the electrical board, of the ~~((contractor's decision to deny or modify an application:~~

- ~~All requests for review must be:~~
- ~~Made in writing;~~

• ~~Received by the chief electrical inspector within twenty calendar days of the contractor's denial; and~~

• ~~Accompanied by a review fee of \$109.50. The review fee is nonrefundable.)~~ department's denial or modification of the application. The applicant must submit a written request for review to the Secretary of the Electrical Board - Chief Electrical Inspector - Within twenty days of notification of the denial/modification. The request must include a review fee of one hundred nine dollars and fifty cents. The review fee is nonrefundable.

(4) CLASS APPROVAL PROCESS.

(a) Class applications must include:

(i) Sponsor's name, address, contact name, e-mail address, telephone number, and sponsor's number (if a class was previously approved);

(ii) Class title;

(iii) Number of education hours requested for the class;

(iv) Category of class for which approval is sought (e.g., code update, RCW/WAC update, industry related, basic trainee class, pumping industry, or pumping industry basic trainee class);

(v) Statement that all requirements of this section will be complied with;

(vi) Statement of whether the class is open to the public;

(vii) Class syllabus (e.g., presentation method(s), description of the training, specific NEC/RCW/WAC articles taught, theory subjects, time allowed for various subject matter components, examination question samples, etc.) describing how the class meets the minimum requirements, described below, for the type of class being offered;

(viii) The applicant must show that the sponsor regularly employs at least one staff member who meets the requirements for instructors in this section;

(ix) List of resources (e.g., texts, references, etc.);

(b) Class approval will be valid for three years except:

(i) If the class is "code update" and a new NEC is adopted by the department within the class approval period, the class approval will be considered automatically revoked; or

(ii) If the class is modified after the application is approved, the class approval will be considered automatically revoked (i.e., change in syllabus, hours, examination, etc.).

~~((b))~~ (c) Minimum requirements:

(i) Class length:

(A) The minimum allowed length of a class is two hours; however, the minimum length for a basic trainee class or pumping industry basic trainee class is eight hours that may be delivered in multiple classroom components of not less than two hours each.

(B) Class length must be based on two-hour increments (e.g., 2, 4, 6, 8, etc.)

(C) Class length must be based on the following:

• Classroom instruction will be based on the total hours the individual is in the classroom. A continuing education class may be divided into multiple components so long as each component is not less than two hours in length and all components are completed within a one-month period. A basic trainee class may be divided into multiple components so long as each component is not less than two hours in length

and all components are completed within a two-month period.

• Distance learning continuing education classes (i.e., correspondence and internet continuing education classes) will be based on clock hours necessary to complete the class if it was presented in a classroom setting.

(ii) Class content:

(A) Industry-related classes must be based on:

• Codes or rules included in the ((~~NEC chapters 19.28 RCW or 296-46B WAC~~)) currently adopted National Electrical Code (see definition of currently adopted), the electrical law/rule;

• Electrical theory based on currently published documents that are readily available for retail purchase; and/or

• Materials and methods that pertain to electrical construction, building management systems, electrical maintenance, or workplace ((~~health and~~)) electrical safety such as NFPA 70E - Handbook for Electrical Safety in the Workplace. First aid type classes must be approved and will be limited to four hours of credit towards the individual's total continuing education requirement.

(B) Code update classes must be based on the ((~~latest adopted version of the NEC~~)) currently adopted (see definition) National Electrical Code and must specify the ((NEC)) code articles to be addressed in the class presentation.

(C) RCW/WAC update classes must be based on the latest adopted versions of chapter 19.28 RCW and/or chapter 296-46B WAC.

(D) All basic ((~~classroom electrical training~~)) trainee classes and pumping industry basic ((classroom training)) trainee classes must be classroom instruction only and based upon basic electrical theory, ((use of the NEC)) currently adopted (see definition for currently adopted) National Electrical Code, and/or use of the electrical laws ((and)) or rules. Correspondence and internet classes are not allowed. All basic ((classroom electrical training)) trainee classes must include an appropriate written competency examination(s) to ensure the participant ((understands)) mastered the basic concepts of the class. ((To successfully complete the class, the participant must score at least seventy percent on)) The examination must consist of at least five questions per two hours of class credit.

(E) ((~~In addition,~~)) For all pumping industry classes, curriculum must include fifty percent electrical and fifty percent plumbing instruction.

((ii) Class length:

(A) The minimum allowed length of a class is two hours; however, the minimum length for a basic classroom electrical trainee classroom training or pumping industry basic classroom trainee classroom training is eight hours that can be delivered in multiple classroom sessions of not less than two hours each.

(B) The maximum allowed credit for a class is twenty-four hours.

(C) Class length must be based on two-hour increments (e.g., 2, 4, 6, 8, etc.).

(D) Class length must be based on the following:

• Classroom instruction will be based on the total hours the individual is in the classroom. A class may be divided into multiple sections so long as each section is not less than two

hours in length and all sections are taken within a one month period.

• Distance learning (i.e., correspondence and internet classes) will be based on clock hours necessary to complete the class if it was presented in a classroom setting. See the application process in subsection (3)(d)(ii) of this section for distance learning classes for additional information.

(iii) Certificates of completion:

(A) The sponsor must award a completion certificate to each individual successfully completing the approved class. To successfully complete a correspondence or internet class, a participant must score at least 70% on the examination required for the class.

(B) The completion certificate must include the:

- Name of participant;
- Participant's Washington certificate number;
- Name of sponsor;
- Name of class;
- Date of class;
- Name of instructor;
- Location of the class;

— If a classroom-type class, the city and state in which the class was given;

— If a correspondence class, state the class is a correspondence class;

— If an internet class, state the class is an internet class;

• Class approval number;

• Number of continuing units; and

• Type of continuing education units.

(iv) Instructors:

(A) For classroom instruction except first aid training, all instructors must be approved per this section; and

(B) For correspondence and internet instruction, the applicant must show that the sponsor regularly employs at least one staff member who meets the requirements for instructors in this section.) (F) The sponsor of any distance learning class (e.g., correspondence/internet continuing education) must provide the following additional information with the application:

• How the sponsor will provide an orientation session with the instructor or an affiliated representative of the sponsor.

• The application must include a complete description of any hardware, software, or other technology to be used by the provider and needed by the student to effectively engage in the delivery and completion of the class material.

• In the case of internet based continuing education classes, describe how the class software addresses automatic shutdown after a period of inactivity.

• How will the sponsor provide security to ensure that the student who receives credit for the class is the student who enrolled in and completed the class. The approved sponsor and the student must certify that the student has completed the class and the required number of clock hours.

• The application must describe the process and the acceptable methods of how students can contact approved instructors to answer questions regarding the class.

• The application must describe the consistent and regular interactive events appropriate to the delivery method. The interactive elements must be designed to promote student

involvement in the learning process and must directly support the student's achievement of the class learning objectives.

- The application must demonstrate that the class includes the same or reasonably similar information content as a course that would otherwise qualify for the requisite number of clock hours of classroom-based instruction.

- The application must demonstrate how the sponsor determined the number of clock hours requested.

- The application must demonstrate how mastery of the material is evaluated (e.g., describing how the material is divided into major learning units and describing how these learning units are divided into modules of instruction, describing how the student's progress toward completion of the mastery requirement will be measured, and describing how the class will provide a mechanism of individual remediation to correct any deficiencies in each module of instruction).

(5) INSTRUCTOR APPROVAL PROCESS:

(a) Except first-aid training, all instructors must be approved per this section.

(b) The instructor application will include:

(i) Instructor's name, address, telephone number, e-mail address;

(ii) Copies of credentials or other information showing conformance with the instruction minimum qualifications.

(c) Instructor approval will be valid for three years except:

(i) If the instructor's credentials are invalidated (e.g., suspension or revocation by the issuing entity) for any reason, approval will be automatically revoked.

(ii) When the instructor approval expires or is revoked, a new application must be submitted to regain approved instructor status.

~~((b))~~ (d) Minimum requirements:

~~((+))~~ The application must show that the instructor meets one of the following:

~~((A))~~ (i) Has a valid Washington administrator, master electrician, or electrician's certificate and has appropriate knowledge of and experience working as an electrical/electronic trainer; or

~~((B))~~ (ii) Is currently an instructor in a two-year program in the electrical construction trade licensed by the Washington work force training and education coordinating board. The instructor's normal duties must include providing electrical/electronic education; or

~~((C))~~ (iii) Is a high school vocational teacher, community college, college, qualified instructor with a state of Washington approved electrical apprenticeship program, or university instructor. The instructor's normal duties must include providing electrical/electronic education; or

~~((D))~~ (iv) Works for and is approved by a manufacturer of electrical products to teach electrical continuing education.

~~((ii) Any other information the applicant wants to be considered during the review-))~~

(6) FORMS:

(a) The ~~((contractor))~~ department will~~((:))~~ develop an appropriate form(s) for the applicant's use when submitting for instructor or class approval;

(b) Applicants must use the ~~((contractor's))~~ department's form when submitting an application for review.

(7) ~~((PUBLICATIONS:~~

The contractor will provide the department with appropriate material for use by the department on the electrical program web site and may post the application process, review, and approval requirements on the contractor's web site.

~~((8))~~ CLASS ATTENDANCE:

(a) ~~((The contractor is not responsible for monitoring any individual's attendance or class completion.~~

~~((b))~~ The department is not responsible for providing verification of an individual's continuing education or basic ~~((electrical))~~ trainee classroom training history with the class sponsor;

~~((e))~~ (b) Electrical approved classes offered in Washington:

(i) The sponsor must provide the department with an accurate on-line course attendance/completion roster for each class given. Class attendance will only be verified based on the on-line attendance/completion roster provided by the sponsor. ~~((Completion certificates are not an acceptable method of verifying attendance at a class approved in Washington under this chapter.))~~

(A) Within seven days of a student completing the class, the course sponsor must provide the attendance/completion roster in an internet format provided by the department.

(B) The attendance/completion roster must show each individual's name, Washington certificate number, class number, ~~((location of class,))~~ and date of completion~~((, and instructor's name)).~~

(ii) ~~((The sponsor must provide the individual a certificate of completion within fifteen days after successful class completion for the individual's personal records. See subsection (4) of this section.~~

~~((iii))~~ Individuals will not be granted credit for a class unless the sponsor's on-line attendance/completion roster shows the individual successfully completed the class.

~~((d))~~ (c) For classes approved under chapter 18.106 RCW for the pumping industry, a class number will be created for electrical continuing education. Sponsors for these classes must verify attendance for the electrical credit using the format described in subsection ~~((e))~~ (b) of this section.

~~((9) Contractor requirements:~~

(a) ~~The contractor cannot be a sponsor or instructor.~~

(b) ~~The contractor cannot be an employee of the department.~~

(c) ~~The contractor must:~~

(i) ~~Be an independent entity with no organizational, managerial, financial, design, or promotional affiliation with any sponsor or instructor covered under the contractor's review and approval/denial process;~~

(ii) ~~Employ at least one staff member having a valid 01-General Administrator or 01-General Master Electrician Certificate. This staff member:~~

(A) ~~Is responsible for reviewing and determining an application's approval or denial; and~~

(B) ~~Must sign the written notification provided to applicants for all approvals and denials;~~

(iii) ~~Receive, review, and process all applications as required in this section;~~

~~(iv) Allow the department access to the contractor's facilities during normal working hours to audit the contractor's ability to conform to the contract requirements;~~

~~(v) Treat all applications as proprietary information;~~

~~(vi) Respond to and attempt to resolve complaints contesting the review or approval/denial process performed by the applicant;~~

~~(vii) Notify the department within ten working days of any change in business status or ability to conform to this section;~~

~~(viii) Maintain one copy, original or electronic, of all applications and associated materials for a period of three years from the date of receipt.)~~ (8) Noncompliance with this section by a course sponsor or instructor.

(a) Before a course sponsor or instructor is revoked or suspended for noncompliance with this section, the course sponsor or instructor will be given written notice of the department's intention to suspend or revoke. The notification will describe the allegations and provide the necessary procedures to request a hearing before the electrical board as described in RCW 19.28.341.

(b) The department may also file a civil penalty action under chapter 19.28 RCW for fraudulent, inaccurate, or material misrepresentation activity.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-971 Training schools. (1) The department must evaluate and approve training school programs in the electrical trade as regulated by chapter 19.28 RCW for equivalency to hours of supervised work experience. Approved training programs must be from a Washington state public community or technical college, or a not-for-profit nationally accredited technical or trade school licensed by the work force training and education coordinating board under chapter 28C.10 RCW.

(2) The minimum total hours for an electrical technical training program must be determined per RCW 19.28.191.

(3) Training school programs must be approved before their graduates may request credit for equivalent work experience hours toward journeyman or specialty electrician certification. Until December 31, 2003, existing electrical training programs, in effect after January 1, 2000, may apply for retroactive approval of their program to determine the number of hours that will be credited for the program graduates. After December 31, 2003, all training programs must be approved by the department prior to beginning instruction.

(4) Training schools must submit the curriculum of each journeyman or specific specialty electrical training program to the department for approval. The curriculum must include a detailed description of each course that is included in the total training hours required by RCW 19.28.191. The curriculum must be reviewed by the department whenever significant changes in program content or course length are implemented or at an interval not to exceed three years. After department review, the program may be renewed. In evaluating the relevance of the curriculum, the department will consider the following criteria:

(a) Scope of work for the appropriate electrician certification.

(b) Understanding whole systems related to and integrated with electrical equipment installation, maintenance, troubleshooting, and appliance repair (e.g., refrigeration, pumps, hydraulics, thermodynamics, compressed air, and similar systems).

(c) Courses not directly related to electrical technical instruction or specific scope of work, but required to complete the specific training program (i.e., mathematics, technical writing, business, safety, first aid, ergonomics, etc.), must not exceed ten percent of the total student/instructor contact time of the program.

(5) Within thirty days after beginning a program, the program sponsor must supply the department with a roster of individuals enrolled in the program. The roster must show each student's name, date of enrollment, Washington training or electrician certificate number, and the training program number. Within thirty days after each graduation cycle, approved training school programs must provide the department with a roster of individuals that have successfully completed the program. The roster must show each student's name, date of completion, Washington training or electrician certificate number (~~(or student identification number)~~), and the training program title. An individual must provide a copy of the certificate of completion or proof of graduation from the electrical training program when making application to the department for an electrician examination.

(6) All school training activities involving electrical work or appliance repair done outside of in-school lab facilities must be done under a valid Washington electrical contractor's license. All students performing such work must have a valid training certificate and work under a supervising journeyman or specialty electrician in a ratio, per RCW 19.28.161, in compliance with RCW 19.28.161.

(7) Individuals in a two-year electrical construction trade training program for journeyman electrician must obtain the additional two years of work experience required in new industrial or commercial installation prior to the beginning, or after the completion, of the technical school program.

All student electrical training hours obtained when working for contractors or other employers in intern programs arranged by the school must be evaluated as part of the training program hours. Additional work experience credit gained in an intern program is not allowed.

This does not prohibit trainees in a training program for specialty electricians from having concurrent employment and obtaining additional specialty work experience while attending school. All such concurrent work must be documented in an affidavit of experience per WAC (~~(296-46B-965 (5), (6), (7), and)~~ 296-46B-942(8)).

The following supervision requirements must be met when working as an intern or student:

(a) Intern when working for contractors or other employers as a:

(i) General electrician, there must be not more than one noncertified individual for every certified master journeyman electrician or journeyman electrician.

(ii) Specialty electrician, there must be not more than two noncertified individuals for every certified master spe-

cialty electrician working in that electrician's specialty, specialty electrician working in that electrician's specialty, master journeyman electrician, or journeyman electrician.

(b) Student when working for a public community or technical college, or not-for-profit nationally accredited trade or technical school licensed by the work force training and education coordinating board under chapter 28C.10 RCW as a journeyman or specialty electrician in the training program, the ratio requirements are one certified master specialty electrician working in that electrician's specialty, master journeyman electrician, or journeyman electrician working as a specialty electrician to no more than four students enrolled in and working as part of an electrical construction program. All such work will be considered to be an integral part of the training program and work experience credit will not be allowed except as a part of the program.

When the ratio of certified electricians to noncertified individuals on a job site is one certified electrician to three or four noncertified individuals, the certified electrician must:

(i) Directly supervise and instruct the noncertified individuals and the certified electrician may not directly make or engage in an electrical installation; and

(ii) Be on the same job site as the noncertified individual for a minimum of one hundred percent of each working day.

The public community or technical colleges, or not-for-profit nationally accredited trade or technical schools must be an appropriately licensed electrical contractor when performing work outside the classroom.

(8) The department will use the criteria in this section to evaluate the hours of credit that may be allowed for United States armed forces experience and training in the electrical construction, electrical maintenance, and appliance repair trades. See WAC ((~~296-46B-940(20)~~) 296-46B-945).

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-985 Penalties for false statements or material misrepresentations. (1) A person who makes a false statement or material misrepresentation on an application, statement of hours, or signed statement to the department may be referred to the county prosecutor for criminal prosecution under RCW 9A.72.020, 9A.72.030, and 9A.72.040. The department may also file a civil action under RCW 19.28.131 or 19.28.271 and may revoke or suspend a certificate under RCW 19.28.241 or 19.28.341.

(2) The department may file a civil action under RCW 19.28.131 or 19.28.271 and may revoke or suspend a certificate of competency under RCW 19.28.341 or 19.28.241 for inaccurate or false reporting of continuing or basic trainee classroom education units on the administrator, master electrician, electrician, or training certificate renewal form.

(3) If the department determines that a course sponsor has issued an inaccurate or incomplete course application or attendance/completion roster, the department may suspend or revoke the course approval and deny future approval of a continuing or basic trainee classroom education course(s) by the course sponsor.

(4) The department may file a civil action under RCW 19.28.271 against both the trainee and the contractor, apprentice training director, or other entity verifying the training hours and may subtract up to two thousand hours of employment from a trainee's total hours if the department determines a false statement or material misrepresentation has been made in an affidavit of experience.

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-990 Failure to comply with the electrical contractor licensing, administrator certification, or electrician certification laws. General.

(1) If the compliance officer or electrical inspector/auditor determines that an individual, employer, or employee has violated chapter 19.28 RCW or this chapter, the department will issue a citation that describes the violation.

Suspension or revocation - Of an electrical contractor's license, administrator's certificate, master electrician's certificate of competency, electrician's certificate of competency, or training certificate.

(2) The department may revoke or suspend, for such time as it determines appropriate, an electrical contractor's license, administrator's certificate, master electrician's certificate of competency, electrician's certificate of competency, or training certificate if:

(a) The license, certificate, or permit was obtained through error or fraud;

(b) The license, certificate, or permit holder is judged to be incompetent to work in the electrical construction trade as a master electrician, journeyman electrician, specialty electrician, electrical technician, or electrical trainee;

(c) For serious noncompliance as described below. See RCW 19.28.241 and 19.28.341 for other grounds and procedures.

(d) The license or certificate holder incompletely or inaccurately reported continuing or basic trainee class education units on an application for renewal; or

(e) The certificate holder falsely, incompletely, or inaccurately reported previous work experience.

The department will deny an application for any license/certificate during the period of revocation or suspension of the same or another license/certificate under chapter 19.28 RCW.

(3) For the purposes of this section, serious noncompliance includes, but is not limited to, any of the following:

(a) Failure to correct a serious violation. A serious violation is a violation of chapter 19.28 RCW or chapter 296-46B WAC that creates a hazard of fire or a danger to life safety. A serious violation is also a violation that presents imminent danger to the public. Imminent danger to the public is present when installations of wire and equipment that convey or utilize electric current have been installed in such a condition that a fire-hazard or a life-safety hazard is present. Imminent danger to the public is also present when unqualified, uncertified, or fraudulently certified electricians or administrators; or unlicensed or fraudulently licensed contractors are continuously or repeatedly performing or supervising the perfor-

mance of electrical work covered under chapter 19.28 RCW. For the purposes of this section, a certified electrician is considered qualified, provided the electrician is working within his or her certification;

(b) The license or certificate was obtained through error or fraud;

(c) Submitting a fraudulent document to the department;

(d) Continuous noncompliance with the provisions of chapter 19.28 RCW or this chapter. For the purposes of this section, continuous noncompliance will be defined as three or more citations demonstrating a disregard of the electrical law, rules, or regulations within a period of three years, or where it can be otherwise demonstrated that the contractor, master electrician, electrician, or administrator has continuously failed to comply with the applicable electrical standards;

(e) Failure to make any books or records, or certified copies thereof, available to the department for an audit to verify the hours of experience submitted by an electrical trainee;

(f) Making a false statement or material misrepresentation on an application, statement of hours, or signed statement required by the department;

(g) The certificate holder falsely or inaccurately reported continuing or basic trainee class education units on an application for renewal;

(h) Installing a shortened rod/pipe grounding electrode, improper splicing of conductors in conduits/raceways or concealed within walls, or installing a fake equipment grounding conductor.

For any act of serious noncompliance, the person, firm, partnership, corporation, or other entity may be referred to the county prosecutor for criminal prosecution under chapter 9A.72 RCW. The department may also file a civil action under chapter 19.28 RCW.

(4) Before a license or certificate is revoked or suspended, the certificate holder will be given written notice of the department's intention to suspend or revoke. Notification will be sent by registered mail to the certificate holder's last known address. The notification will list the allegations against the certificate holder, and provide the certificate holder with the procedures necessary to request a hearing before the electrical board as described in WAC 296-46B-995.

Confiscation - Of an electrical contractor's license, administrator certificate, electrician certificate of competency, or training certificate.

(5) The department may confiscate a license or certificate that is counterfeit, revoked, expired, suspended, or altered. The individual may be referred to the county prosecutor for criminal prosecution under chapter 9A.72 RCW. The department may also file a civil action under chapter 19.28 RCW.

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-995 Electrical board—Appeal rights and hearings. General.

(1) Chapter 19.28 RCW provides the authority for the duties and responsibilities of the electrical board. Except as

provided in chapter 19.28 RCW and this chapter, all proceedings will be conducted according to chapter 34.05 RCW the Administrative Procedure Act and chapter 10-08 WAC, Model rules of procedure. See chapter 34.05 RCW the Administrative Procedure Act for specific definitions not described in this chapter.

(2) See RCW 19.28.311 for the composition of the electrical board.

(3) The board adopts the current edition of the "*Roberts' Rules of Order, Newly Revised.*"

(4) The board will hold regular meetings on the last Thursday of January, April, July, and October of each year per RCW 19.28.311.

(5) The director or the chairperson of the board may call a special meeting at any time.

(6) Each board member must be notified in writing of the agenda, date, time, and place of each regular and special meeting. "Writing" includes by electronic mail, also known as "e-mail," if the member has provided an e-mail address for such notice.

(7) The board or department may elect to have an appeal heard by the office of administrative hearings either tape recorded or transcribed by a court reporter; and the board may so elect regarding hearings or board reviews heard by the board as a whole.

(8) A majority of the board constitutes a quorum for purposes of rendering any decision.

(a) If a majority does not attend a hearing or board review on an appeal, the board may either continue the hearing or board review to a date certain or may hear the testimony and arguments.

(b) If the board hears the testimony and arguments, the members of the board who are absent may make their decisions after hearing the tape recording or reading the transcript, of the hearing or board review.

(c) If the board selects the method in subsection (8)(b) of this section, at the time of the hearing, the board (~~shall~~) will set a date certain for the absent members to complete review of the record and for the board as a whole to vote on the decision. The vote in subsection (8)(b) and (c) of this section may occur by U.S. mail, facsimile or by electronic mail and (~~shall~~) will be determined by the board at the hearing; the members' votes (~~shall~~) will be public record.

(9) All filings and documents for any matter before the board must be submitted to the chief electrical inspector, as secretary to the board, 7273 Linderson Way, P.O. Box 44460, Olympia, WA 98504-4460. Twenty copies of filings and documents must be submitted by ordinary mail, certified or registered mail, or by personal delivery. Filings and documents must be received no later than forty-five days prior to the scheduled meeting. When filings or documents are received after the deadlines, the filings and documents will be presented to the board at the second regularly scheduled board meeting.

(10) All hearings before the board as a whole (~~shall~~) will be held on regularly scheduled meeting dates, as listed in subsection (4) of this section, unless the board determines that an alternate date is necessary.

(11) All notices of appeal, with a certified check payable to the department in the sum of two hundred dollars if

required, must be received in the office of the chief electrical inspector, as secretary to the board, at least forty-five days before the regularly scheduled board meeting at which the hearing would occur. A separate two hundred dollar fee is required for each entity's appeal of a specific violation type (e.g., for a single entity, the designated administrator, multiple alleged violations of RCW 19.28.061 (5)(a) - Designated administrator not available, RCW 19.28.061 (5)(d) - Designated administrator fails to ensure proper permit is purchased, and RCW 19.28.061 (5)(e) - Designated administrator fails to ensure corrections are made would require a six hundred dollar appeal fee). The total appeal fee for each entity seeking an appeal hearing is one thousand dollars maximum for all violation types. For original appeals to the board, the appellant must submit twenty copies of any written argument, briefs, testimony, or documents for the board's consideration at least forty-five days prior to the scheduled hearing. When appeals, written argument, briefs, testimony, or documents are received after the deadlines, the appeals, written argument, briefs, testimony, or documents will be presented to the board at the second regularly scheduled board meeting.

Appeals

(12) Appeals of penalties issued by the department.

(a) A party may appeal a penalty issued by the department, pursuant to chapter 19.28 RCW and this chapter, to the board. The appeal ~~((shall))~~ will be assigned to the office of administrative hearings.

(b) The appeal must be filed within twenty days after the notice of the decision or penalty is given to the assessed party either by personal service or by certified mail, return receipt requested, sent to the last known address of the assessed party and ~~((shall))~~ must be made by filing a written notice of appeal with the chief electrical inspector, as secretary to the board. The request for an appeal must be accompanied with a certified check payable to the department in the sum of two hundred dollars.

(13) Appeals of proposed decisions issued by the office of administrative hearings.

(a) A party may appeal a proposed decision issued by the office of administrative hearings pursuant to chapter 19.28 RCW to the board. The appeal must be filed within twenty days after service of the decision and must be made by filing a written notice of appeal with the chief electrical inspector, as secretary to the board.

(b) The notice of appeal of a proposed decision must be received in the office of the chief electrical inspector, as secretary to the board, at least forty-five days before a regularly scheduled board meeting. If you want the board to consider written argument, briefs testimony or other documents, it must be submitted at least forty-five days prior to the scheduled hearing.

(14) Appeals of suspension, revocation, or nonrenewal.

(a) An appeal of the suspension or revocation of a license or certificate of competency under RCW 19.28.241 and 19.28.341 or of nonrenewal of a license or certificate of competency under this chapter will be heard by the board in accordance with chapter 34.05 RCW and not assigned to the office of administrative hearings. The board will conduct the

hearing and may elect to have the assistance of an administrative law judge in the proceeding.

(b) The notice of appeal, with the certified check payable to the department in the sum of two hundred dollars for appeals of a revocation or suspension of a contractor's or administrator's license, must be filed within twenty days after the notice of suspension or revocation is served on the subject of said action, either by personal service or by certified mail, return receipt requested, sent to the last known address of the subject and ~~((shall))~~ must be filed by written notice of appeal with the chief electrical inspector, as secretary to the board.

(15) Appeals of decisions on installation.

(a) A party may seek board review for disputes relating to the interpretation and application of electrical/telecommunications installation or maintenance standards under RCW 19.28.111, 19.28.480, and 19.28.531. The board will conduct the hearing and may elect to have the assistance of an administrative law judge in the proceeding.

(b) The notice of appeal, with the certified check payable to the department in the sum of two hundred dollars, must be received in the office of the chief electrical inspector, as secretary to the board, at least thirty days before a regularly scheduled board meeting. All parties must submit any written argument, briefs, testimony, or documents for the board's consideration at least twenty days prior to the scheduled hearing.

(16) Appeals of a continuing ~~((education))~~ or basic trainee class or instructor for denials or revocations.

A party may appeal a decision issued by the department, pursuant to WAC 296-46B-970 (3)(e) ~~((vi), if the department acts as the contractor pursuant to WAC 296-46B-970 (2)(i))~~ (iv) to the superior court per RCW 34.05.542(3).

(17) Appeals pertaining to engineer approval or electrical testing laboratory recognition and accreditation.

(a) A party may appeal a decision issued by the department pursuant to WAC 296-46B-997 or 296-46B-999. The appeal will be heard by the board in accordance with chapter 34.05 RCW and not assigned to the office of administrative hearings. The board will conduct the hearing and may elect to have the assistance of an administrative law judge in the proceeding.

(b) The notice of appeal, with the certified check payable to the department in the sum of two hundred dollars for appeals pertaining to engineer approval or recognition and accreditation of an electrical testing laboratory, must be filed within twenty days after the notice of the department's decision is served on the subject of said action, either by personal service or by certified mail, return receipt requested, sent to the last known address of the subject and ~~((shall))~~ must be filed by written notice of appeal with the chief electrical inspector, as secretary to the board.

(18) Judicial review of final decisions of the board.

A party may seek judicial review of a final order of the board within thirty days after service of the decision. Appeals of final decisions and orders must be done in accordance with chapter 34.05 RCW.

(19) If appeal(s) according to subsections (12), (13), (15), and (16) of this section are not filed or the appeal is not filed timely, the proposed decision or action becomes final

with no further action on the part of the department or the board.

(20) Appeals - General requirements.

(a) Appeals according to subsections (12), (15), or (16) of this section must specify the contentions of the appellant, and must for subsection (13) of this section specify to which conclusions of law and findings of fact the party takes exception. The appeal will be based on the record of the hearing. The board (~~shall~~) will not grant a hearing (~~due~~) de novo.

(b) In appeals under subsections (13), (14), (15), and (16) of this section, the issues to be adjudicated must be made as precise as possible, in order that the board may proceed promptly to conduct the hearing on relevant and material matter only.

(c) In all appeals of chapter 19.28 RCW and this chapter heard before the office of administrative hearings or directly by the board, the department has the burden of proof by a preponderance of the evidence.

(d) In all appeals of a decision by the office of administrative hearings to the board, the party aggrieved by the decision of the office of administrative hearings has the burden of proof by a preponderance of the evidence.

Appearance and practice before board.

(21) No party may appear as a representative in proceedings other than the following:

(a) Attorneys at law qualified to practice before the supreme court of the state of Washington;

(b) Attorneys at law qualified to practice before the highest court of record of another state, if the attorneys at law of the state of Washington are permitted to appear as representatives before administrative agencies of the other state, and if not otherwise prohibited by Washington law; or

(c) An owner, officer, partner, or full-time employee of a firm, association, organization, partnership, corporation, or other entity who appears for the firm, association, organization, partnership, corporation or other entity.

(22) All persons appearing in proceedings as a representative must conform to the standards of ethical conduct required of attorneys before the courts of Washington. If a person does not conform to these standards, the board may decline to permit the person to appear as a representative in any proceeding before the board.

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-997 Engineer approval. (1) This section describes the methods required to obtain recognition and accreditation of professional engineers registered under chapter 18.43 RCW to approve industrial utilization equipment. This section provides assurance to the general consuming public that electrical products have been tested for safety and identified for their intended use.

(2) Industrial utilization equipment is considered to be safe when it is certified by an engineer accredited by the department.

(a) The department may declare industrial utilization equipment unsafe if:

(i) The equipment is not being manufactured or produced in accordance with all standards of design and construction and all terms and conditions set out in the certification report for the equipment referred to in this chapter;

(ii) The equipment has been shown by field experience to be unduly hazardous to persons or property;

(iii) An examination of the equipment or of the certification report for the equipment shows that the equipment does not comply with all applicable standards; or

(iv) An examination of the certification report or the equipment shows that the equipment cannot be installed in accordance with this chapter.

(b) When the department declares industrial utilization equipment unsafe, the department will notify the product owner and the certifying engineer in writing.

Accreditation - General.

(3) The department's chief electrical inspector's office reviews requests for accreditation. Applicants must submit supporting data to document and verify the requirements of this section have been met.

(4) The accreditation of an engineer will be valid for the period of three years.

(5) On-site inspection of an engineer's facilities.

(a) On-site inspection of the facility(ies) may be required during the initial application process or the renewal process. Representative(s) of the department will evaluate for compliance with accreditation criteria.

(b) The applicant must pay all costs associated with the on-site inspection.

(6) For purposes of chapter 19.28 RCW, all engineers who certify industrial utilization equipment offered for sale in the state of Washington must be accredited by the department.

(7) Fees are payable as required in WAC 296-46B-911.

(8) The engineer must apply for renewal of accreditation at least thirty days prior to the accreditation expiration date. The department will renew accreditation for the period of three years or notify the renewing engineer of the department's reason(s) of refusal following receipt of the completed form and renewal fee.

(9) The department accepts or denies engineer accreditation for engineers seeking to evaluate industrial utilization equipment within the state. Accreditation is determined when an engineer provides evidence to the department that all the requirements of this chapter are met. Accreditation is determined by the department and prior to making a determination, the department may require information and documentation to be provided by the engineer.

(a) Accreditation is subject to review when deemed necessary by the department. The engineer must pay all costs associated with on-site review.

(b) Every accredited engineer must continue to satisfy all the conditions specified in this chapter during the period of the accreditation. An engineer must furnish the department an annual report detailing the extent of its activities for the year. The report must include, but not be limited to:

(i) The number of industrial utilization equipment items approved;

(ii) Organizational structure of the engineer's company;

(iii) Statement of ownership of the engineer's company; and

(iv) Reports of litigation, which in any way were the result of or may affect any accreditation or testing of products covered by this chapter.

(c) The department will notify the applicant of the accreditation results. A letter of accreditation from the department is proof of the accreditation of the engineer.

(10) The engineer will be approved to certify industrial utilization equipment.

Suspension or revocation.

(11) The department may suspend, revoke, or refuse to renew the department's accreditation of any engineer found to be in noncompliance with requirements of this chapter, the laws of the state of Washington, or submitting false information.

(12) The department will serve written notice of intent prior to suspension, revocation, or refusal to renew the accreditation of an engineer.

(13) An engineer, whose accreditation has been suspended, may not reapply for accreditation during the period of such suspension. An engineer, whose accreditation has been revoked, may reapply for accreditation no sooner than two years after the date of revocation of accreditation.

Business structure, practices, and personnel.

(14) The engineer must be an independent, third-party organization with no organizational, managerial, financial, design, or promotional affiliation with owners, manufacturers, suppliers, installers, or vendors of products covered under the engineer's certification or evaluation programs.

The engineer must have an adequate diversity of clients or activity so that the loss or award of a specific contract regarding certification or evaluation would not be a deciding factor in the financial well-being of the engineer.

(15) The engineer must adequately meet the following business practices:

(a) Perform the examinations, tests, evaluations, and inspections required under the certifications programs in accordance with the designated standards and procedures;

(b) Assure that reported values accurately reflect measured and observed data;

(c) Limit work to that for which competence and capacity is available;

(d) Treat test data, records, and reports as proprietary information;

(e) Respond to and attempt to resolve complaints concerning certifications and evaluation results;

(f) Maintain an independent relationship between its clients, affiliates, and other organizations so the engineer's capacity to give certifications and evaluations objectively and without bias is not adversely affected; and

(g) Notify the department within thirty calendar days should it become unable to conform to any of the requirements of this chapter.

(16) Engineers accredited under this chapter must notify the department within thirty calendar days of any of the following:

(a) Change in company name and/or address;

(b) Changes in major test equipment which affect the ability to perform work for which accredited; or

(c) Change in independent status.

(17) The engineer must develop and maintain a certification or evaluation program plan that includes, but is not limited to:

(a) The procedures and authority to ensure the product complies with the standard(s) established by the program;

(b) A quality control system;

(c) Verification and maintenance of facilities and/or equipment; or

(d) Sample selection as applicable for product certifications, and for component testing as necessary for evaluations.

The plan must demonstrate that the engineer has adequate facilities, and equipment to perform all certifications and testing for which it is accredited by the state of Washington. These elements must be contained in the engineer's operations control manual.

(18) The engineer must develop and maintain a quality control system adequate to assure the accuracy and technical integrity of its work as follows:

(a) The engineer's quality control system must include a quality control or engineer's operations control manual;

(b) The quality control or engineer's operations control manual must be adequate to guide a testing technician or inspector in conducting the inspection, evaluation, and/or test in accordance with the test methods and procedures required for the engineer's certification and/or evaluation program(s); and

(c) The engineer must have a current copy of the quality control or engineer operations control manual available for the engineer's use.

(19) The engineer must have training, technical knowledge, and experience adequate to perform the tests, examinations, and evaluations for the certification and/or evaluation activities for which recognition is sought.

(20) The engineer must:

(a) Provide adequate safeguards protecting the engineer's status from the influence or control of manufacturers, vendors, owners, or installers of electrical products certified or tested by the engineer; and

(b) Develop and maintain an adequate training program assuring that the engineer will be able to perform tasks properly and uniformly.

Recordkeeping and reporting - General.

(21) The engineer must develop and maintain records and reports of those testing, inspection, certification, and evaluation activities associated with each piece of industrial utilization equipment. The engineer must retain these records for a minimum of three years.

(22) The engineer must make available to the department, upon request, all records required by the department to verify compliance with this chapter.

(23) ~~((Before beginning the work, the engineer must notify the department of the intent to evaluate using forms provided by the department.))~~ See WAC 296-46B-906 for fee information. The engineer's evaluation report must include:

(a) Name and address of the engineer;

(b) Name of client;

(c) Address where the evaluated product is or will be installed;

(d) Designation of standards used to certify or test the product including edition and latest revision (e.g., UL 508, 16th Edition, Feb. 1993, Revision Oct. 9, 1997);

(e) Description of the overall product evaluated to include full nameplate data and equipment type;

(f) A statement as to whether or not the results comply with the requirements of the standard;

(g) Pertinent test evaluation data and identification of tests or inspections including anomalies;

(h) The engineer's stamp; and

(i) Any condition of acceptability or restrictions on use/relocation.

(24) Within ten calendar days after affixing the evaluation mark, the engineer must submit a copy of the evaluation report to:

(a) The department's chief electrical inspector submitted electronically in a format approved by the department;

(b) Local electrical inspection office submitted electronically in a format approved by the department; and

(c) Client submitted in any format acceptable to the client and engineer.

AMENDATORY SECTION (Amending WSR 06-05-028, filed 2/7/06, effective 5/1/06)

WAC 296-46B-999 Electrical testing laboratory requirements. General.

(1) This section describes the methods required to obtain recognition and accreditation of electrical product(s) certification and/or field evaluation laboratories by the state of Washington. This section provides assurance to the general consuming public that electrical products have been tested for safety and identified for their intended use.

(2) An electrical product is considered to be safe when it is either certified by a laboratory accredited by the department or labeled with a field evaluation mark by a laboratory accredited by the department.

(a) The department may declare electrical equipment unsafe if:

(i) The equipment is not being manufactured or produced in accordance with all standards of design and construction and all terms and conditions set out in the certification report for the equipment referred to in this chapter;

(ii) The equipment has been shown by field experience to be unduly hazardous to persons or property;

(iii) An examination of the equipment or of the certification report for the equipment shows that the equipment does not comply with all applicable standards; or

(iv) An examination of the certification report or the equipment shows that the equipment cannot be installed in accordance with this chapter.

(b) When the department declares an electrical product unsafe, the department will:

(i) Notify the product manufacturer and the appropriate testing laboratory in writing;

(ii) Notify the general public by:

(A) Report to the Consumer Product Safety Commission;

(B) A published article in the *Electrical Currents*;

(C) Internet web site posting; and/or

(D) News release.

Accreditation - General.

(3) The department's chief electrical inspector's office reviews requests for accreditation or evaluation. Applicants must submit supporting data to document and verify the requirements of this section have been met.

(4) The accreditation of a NRTL will be valid for the period of the laboratory's current OSHA NRTL accreditation. The accreditation of a non-NRTL will be valid for the period of five years from the date of the department's accreditation.

(5) On-site inspection of a laboratory.

(a) On-site inspection of the laboratory may be required during the initial application process or the renewal process. Technically qualified representative(s) of the department will evaluate for compliance with accreditation criteria.

(b) On-site inspection is not required for NRTL-recognized laboratories requesting approval as certification laboratories using standards for which NRTL recognition has been approved.

(c) The department may waive on-site inspection for:

(i) Laboratories recognized or accredited by another state determined to provide an accreditation program acceptable to the department; or

(ii) NRTL-recognized laboratories requesting approval as certification laboratories for using other standards for which NRTL recognition has not been approved.

(d) The applicant must pay all costs associated with the on-site inspection.

(6) For purposes of chapter 19.28 RCW, all laboratories which certify and/or field evaluate electrical products offered for sale in the state of Washington must be accredited by the department. A NRTL requesting approval as a certification laboratory will be approved for accreditation by the department upon completion of the application process.

(7) Fees are payable as required in WAC 296-46B-911.

(8) The laboratory must apply for renewal of accreditation at least thirty days prior to the accreditation expiration date. The department will renew accreditation for the period specified in subsection (4) of this section or notify the renewing laboratory of the department's reason(s) of refusal following receipt of the completed form and renewal fee. Accreditation may be renewed or refused for one or more electrical product category(ies).

(9) The department accepts or denies laboratory accreditation for all laboratories within the state. Accreditation is determined when a laboratory provides evidence to the department that all the requirements of this chapter are met. Accreditation is determined by the department and prior to making a determination, the department may require information and documentation to be provided by the laboratory.

(a) Accreditation is subject to review when deemed necessary by the department. The laboratory must pay all costs associated with on-site review.

(b) Every accredited laboratory must continue to satisfy all the conditions specified in this chapter during the period of the accreditation. A non-NRTL accredited laboratory must furnish the department an annual report detailing the extent

of its activities for the year. The report must include, but not be limited to:

- (i) The number of factory inspections;
- (ii) Organizational structure of the laboratory;
- (iii) Statement of ownership of the laboratory;
- (iv) Laboratory equipment verification;
- (v) Client accreditation programs;
- (vi) Reports of litigation, which in any way were the result of or may affect any accreditation or testing of products covered by this chapter; or
- (vii) Assessment of recordkeeping (i.e., certification/evaluation plans, certification/evaluation reports).

(c) The department will notify the applicant of the accreditation results. A letter of accreditation from the department is proof of the accreditation of a laboratory.

(10) The laboratory will be approved to certify only those categories identified and authorized by the department. The department will approve and list electrical product category(ies) the laboratory is qualified to certify or evaluate. The accreditation letter will indicate the electrical product category(ies) for which accreditation is issued.

(11) The department may exclude specific electrical products from acceptance. When required, the laboratory must provide evidence, acceptable to the department, that the laboratory is qualified to certify or field evaluate the specific electrical product. Laboratory recognition as an NRTL for the standard(s) used to certify or field evaluate an electrical product will be acceptable evidence. The standards used for certification or field evaluation must be determined by the department to be acceptable and applicable to the electrical product being certified or field evaluated.

If a laboratory chooses to add additional standards prior to its expiration date, it must submit a Request Approval for Additional Standards form to the chief electrical inspector.

Suspension or revocation.

(12) Any laboratory failing to comply with the requirements of this chapter or submitting false information may have accreditation revoked or suspended for one or more electrical product category(ies).

(13) The department may suspend, revoke, or refuse to renew the accreditation of any laboratory found to be in non-compliance with this chapter or the laws of the state of Washington.

(14) The department will serve written notice of intent prior to suspension, revocation, or refusal to renew the accreditation of a laboratory.

(15) The laboratory must immediately notify all manufacturers whose products are covered by the accreditation that such products manufactured subsequent to the departmental revocation and offered for sale in the state of Washington can no longer bear the laboratory's label that identified it as a certified product in the state of Washington. A laboratory, whose accreditation has been suspended, may not reapply for accreditation during the period of such suspension. A laboratory, whose accreditation has been revoked, may reapply for accreditation no sooner than one year after the date of revocation of accreditation.

Business structure, practices, and personnel.

(16) The laboratory must be an independent, third-party organization with no organizational, managerial, financial, design, or promotional affiliation with manufacturers, suppliers, installers, or vendors of products covered under its certification or evaluation programs.

The laboratory must have an adequate diversity of clients or activity so that the loss or award of a specific contract regarding certification or evaluation would not be a deciding factor in the financial well-being of the laboratory.

(17) The laboratory must adequately meet the following business practices:

(a) Perform the examinations, tests, evaluations, and inspections required under the certifications programs in accordance with the designated standards and procedures;

(b) Assure that reported values accurately reflect measured and observed data;

(c) Limit work to that for which competence and capacity is available;

(d) Treat test data, records, and reports as proprietary information;

(e) Respond and attempt to resolve complaints contesting certifications and evaluation results;

(f) Maintain an independent relationship between its clients, affiliates, and other organizations so the laboratory's capacity to give certifications and evaluations objectively and without bias is not adversely affected; and

(g) Notify the department within thirty calendar days should it become unable to conform to any of the requirements of this chapter.

(18) Laboratories accredited under this chapter must notify the department within thirty calendar days of any of the following:

(a) Change in company name and/or address;

(b) Changes in major test equipment which affect the ability to perform work for which accredited;

(c) Changes in principal officers, key supervisory and responsible personnel in the company including the director of testing and engineering services, director of follow-up services, and the laboratory supervisor; or

(d) Change in independent status.

(19) The laboratory must develop and maintain a certification or evaluation program plan that includes, but is not limited to:

(a) The procedures and authority to ensure the product complies with the standard(s) established by the program;

(b) A quality control system;

(c) Adequate personnel to perform the certification or evaluation;

(d) Verification and maintenance of facilities and/or equipment; or

(e) Sample selection as applicable for product certifications, and for component testing as necessary for field evaluations.

The plan must demonstrate that the laboratory has adequate personnel, facilities, and equipment to perform all certifications and testing for which it is accredited by the state of Washington. These elements must be contained in the laboratory operations control manual.

(20) The laboratory must develop and maintain a quality control system adequate to assure the accuracy and technical integrity of its work as follows:

(a) The laboratory's quality control system must include a quality control or laboratory operations control manual;

(b) The quality control or laboratory operations control manual must be adequate to guide a testing technician or inspector in conducting the inspection, evaluation, and/or test in accordance with the test methods and procedures required for the laboratory's certification and/or evaluation program(s); and

(c) The laboratory must have a current copy of its quality control or laboratory operations control manual available in the laboratory for use by laboratory personnel.

(21) Competent personnel who must have training, technical knowledge, and experience adequate to perform the tests, examinations, and evaluations for the certification and/or evaluation activities for which recognition is sought must staff the laboratory.

(22) The laboratory must:

(a) Provide adequate safeguards protecting the employment status of personnel from the influence or control of manufacturers, vendors, or installers of electrical products certified or tested by the laboratory;

(b) Develop and maintain a job description for each technical position category;

(c) Ensure the competency of its staff to perform assigned tasks through individual yearly observation and/or examination by a person(s) qualified by the person who has technical responsibility for the laboratory;

(d) Develop and maintain records of the results and dates of the observation or examination of personnel performance;

(e) Maintain information on the training, technical knowledge, and experience of personnel; and

(f) Develop and maintain an adequate training program assuring that new or untrained personnel will be able to perform assigned tasks properly and uniformly.

Recordkeeping and reporting - General.

(23) The laboratory must develop and maintain records and reports of those testing, inspection, certification, and evaluation activities associated with each program for which accreditation is sought. The laboratory must retain these records for a minimum of three years.

(24) The laboratory must make available to the department, upon request, all records required by the department to verify compliance with this chapter.

Recordkeeping and reporting - Certification.

(25) Certification reports must contain, as applicable:

(a) Name and address of the laboratory;

(b) Pertinent data and identification of tests or inspections;

(c) Name of client;

(d) Appropriate product title;

(e) Designation of standards used to certify or test the product including edition and latest revision (e.g., UL 508, 16th Edition, Feb. 1993, Revision Oct. 9, 1997);

(f) Description and identification of the sample including, as necessary, where and how the sample was selected;

(g) Identification of the test, inspection, or procedure as specified for certification or evaluation by the standard;

(h) Known deviations, additions to, or exclusions from evaluation and certification activities in order to be appropriate for new or innovative products not contemplated by the standard;

(i) Measurements, examinations, derived results, and identification of test anomalies;

(j) A statement as to whether or not the results comply with the requirements of the standard;

(k) Name, contact information, and signature of person(s) having responsibility for the report;

(l) Raw data, calculations, tables, graphs, sketches, and/or photographs generated during certification or evaluation must be maintained if not included in the report;

(m) Control forms documenting the receipt, handling, storage, shipping, and testing of samples;

(n) Laboratory records of its quality control checks and audits for monitoring its test work associated with its certification programs, including:

(i) Records of products assurance (follow-up) test results; and

(ii) Records of detected errors and discrepancies and actions taken subsequent to such detection.

(o) Record of written complaints and disposition thereof; and

(p) A statement that records required by these criteria will be maintained for a minimum of three years after cessation of the certification or evaluation.

Recordkeeping and reporting - Field evaluation.

(26) The evaluation report must include:

(a) Name and address of the laboratory;

(b) Name of client;

(c) Address where the evaluated product is or will be installed;

(d) Designation of standards used to certify or test the product including edition and latest revision (e.g., UL 508, 16th Edition, Feb. 1993, Revision Oct. 9, 1997);

(e) Description and identification of the nonlisted and nonlabeled component(s) requiring evaluation by applicable standard(s);

(f) Description of the overall product evaluated to include full nameplate data and equipment type;

(g) A statement as to whether or not the results comply with the requirements of the standard;

(h) Pertinent test evaluation data and identification of tests or inspections including anomalies;

(i) Signature of person(s) having responsibility for the report;

(j) Any condition of acceptability or restrictions on use/relocation;

(k) Serial number(s) of the field evaluation label(s) applied must be included with the equipment identification; ~~(and)~~

(l) The labor and industries department file identification number; and

(m) Date the equipment label was affixed.

(27) Within thirty calendar days after affixing the evaluation mark, the laboratory must submit a copy of the evaluation report to:

(a) The department's chief electrical inspector submitted electronically in a format approved by the department;

(b) Local electrical inspection office submitted electronically in a format approved by the department; and

(c) Client submitted in any format acceptable to the client and testing laboratory.

Facilities and equipment.

(28) The laboratory must provide adequate evidence of the calibration, verification, and maintenance of the facilities and equipment specified for each certification or evaluation.

(29) Verification and maintenance of facilities and equipment must include as applicable, but not be limited to:

(a) Equipment description;

(b) Name of manufacturer;

(c) Model, style, serial number, or other identification;

(d) Equipment variables subject to calibration and verification;

(e) Statement of the equipment's allowable error and tolerances of readings;

(f) Calibration or verification procedure and schedule;

(g) Dates and results of last calibrations or verifications;

(h) Specified maintenance practices;

(i) Calibration and/or verification of equipment used;

(j) Name and contact information of personnel or outside contractor providing the calibration or verification service; and

(k) Traceability to National Institute of Standards and Technology or other equivalent standard reference authority.

Standards.

(30) The laboratory must have copies available, for laboratory personnel use, of applicable standards and other documents referred to or used in performing each certification or test for which approval is sought.

(31) If a laboratory desires to use a standard other than an ANSI standard, the department will evaluate the proposed standard to determine that it provides an adequate level of safety. The National Electrical Code, NFPA 70, will not be allowed to be the primary standard used to evaluate a product.

Product certification.

(32) The electrical product certification program must contain test procedure(s), standard(s) used, certification agreement(s), method(s) of identification of products, follow-up inspection, and other laboratory procedures and authority necessary to ensure that the product complies with the standards (requirements) established by the program.

(33) All components of certified or tested products must be labeled or evaluated for compliance with all standards and conditions of use applicable to such components.

(34) The laboratory must publish an *Annual Product Directory* identifying products that are authorized to bear the laboratory's certification mark. The products directory must briefly describe the program, the products covered, the name of the manufacturer or vendor of the certified products, and

the identification of the published standards or the compiled requirements on which the program is based. The product directory must be available to the public. Supplemental up-to-date information must be available to the public at the office of the laboratory during normal business hours.

Certification laboratory/manufacturer - Agreement.

(35) Measures to provide for manufacturer compliance with the provisions of the product standard and laboratory control of the use of the certification mark must be embodied in an agreement between the manufacturer and the certification laboratory. The certification agreement must:

(a) Require the manufacturer to provide information and assistance as needed by the laboratory to conduct the necessary product conformity and production assurance evaluation;

(b) Allow the laboratory's representative(s) access to the manufacturer's facilities during working hours for inspection and may allow audit activities without prior notice;

(c) Restrict the manufacturer's application of certification marks to products that comply with requirements of the product standard;

(d) Secure the manufacturer's agreement to the publication of notice by the certification laboratory for any product already available in the marketplace that does not meet the safety standard;

(e) Require reevaluation of products whenever the standard covering the product is revised;

(f) Require the laboratory to notify the manufacturer's personnel responsible for and authorized to institute product recall in the case of a hazard;

(g) Provide for control of certification marks by the laboratory;

(h) Require that the laboratory provide the manufacturer with a report of original product evaluation. The report must document conformity with applicable product standards by test results and other data; and

(i) Require the identification of the manufacturer(s) of the product and the location(s) where the product is produced.

Certification mark.

(36) The laboratory owns the certification mark.

(37) The certification mark must be registered as a certification mark with the United States Patent and Trademark Office.

(38) The certification mark must:

(a) Not be readily transferable from one product to another;

(b) Be directly applied to each unit of production in the form of labels or markings suitable for the environment and use of the product. When the physical size of the unit does not permit individual marking, markings may be attached to the smallest package in which the unit is marketed;

(c) Include the name or other appropriate identification of the certification laboratory;

(d) Include the product category; and

(e) The laboratory must have a system of controls and records for all marks. The records must include marks removed or otherwise voided. See WAC 296-46B-999(25).

(39) The certification mark may be applied to the product prior to authorizing the use of a certification mark on a product. The laboratory must:

(a) Determine by examination and/or tests that representative samples of the product comply with the requirements (standards). Components of certified products must comply with the applicable safety requirements (standards) or be listed. Evaluation of the product design must be made on representative production samples or on prototype product samples with subsequent verification that factory productions are the same as the prototype;

(b) Determine that the manufacturer has the necessary facilities, test equipment, and control procedures to ensure that continuing production of the product complies with the requirements; and

(c) If the certification mark is not applied at the manufacturing facility, the laboratory must provide prior notification to the department of its intent to affix the certification mark in the field.

Certification laboratory product - Assurance/follow up.

(40) To verify continued product acceptability, the laboratory must develop and maintain a factory follow-up inspection program and manual to determine continued compliance of certified products with the applicable standard.

(41) The follow-up inspection file must include the:

(a) Conditions governing the use of the certification mark on products;

(b) Identification of the products authorized for certification;

(c) Identification of manufacturer and plant location at which manufacture and certification are authorized;

(d) Description, specifications, and requirements applicable to the product;

(e) Description of processes needed for control purposes;

(f) Description of the manufacturer's quality assurance program when used as part of the follow-up program;

(g) Description of inspections and tests to be conducted by the manufacturer and the laboratory; and

(h) Description of follow-up tests to be conducted in the laboratory.

(42) Follow-up procedures and activities must include:

(a) Periodic inspections at the factory with testing at the factory or certification laboratory of representative samples selected from production and, if appropriate, from the market;

(b) Periodic auditing or surveillance of the manufacturer's quality assurance program through the witnessing of manufacturer's tests, review of the manufacturer's records, and verification of the manufacturer's produced data;

(c) Investigation of alleged field failures upon department request; and

(d) Procedures for control of the use of the certification mark by:

(i) Keeping records of the release and use of certification marks;

(ii) Removal of marks from noncomplying products;

(iii) Return or destruction of unused marks when the authority to use the marks is terminated; and

(iv) Legal action.

(43) The frequency of laboratory follow-up inspections must not be less than four times per year during production, unless adequate data is provided to the department to justify less frequent inspections. If there is no production during the year, at least one follow-up inspection is to be completed. The frequency of follow-up inspections must be sufficient to provide a reasonable check on the method(s) the manufacturer exercises to assure that the product bearing the certification mark complies with the applicable standards.

Field evaluation - Requirements.

(44) The field evaluation laboratory may perform evaluations on any products or product categories previously approved by the department. NRTL recognition may be accepted by the department as a basis for approval to perform field evaluations. Since OSHA does not review or recognize laboratories for field evaluation purposes, laboratories seeking accreditation from the department for field evaluation may be required to provide additional justification of capability such as, but not limited to: Recordkeeping, employee standards and proficiency, equipment requirements, and other requirements described in this chapter.

~~(45) ((The laboratory must request permission from the department in writing two working days prior to conducting any field evaluation of an electrical product to be installed in any jurisdiction in the state. Requests must be made using a department-supplied form.~~

~~(46) The field evaluation process must be completed within six months following department approval. If the field evaluation is not completed within six months following department approval, the laboratory must request permission from the department in writing to continue the evaluation process. If this secondary permission is granted to the laboratory, the department may require the equipment to be placed out of service except as necessary to complete the field evaluation process.~~

~~(47))~~ The scope of a field evaluation will depend on the status of the item to be evaluated as follows:

(a) A new piece of equipment must have a complete evaluation of all components and the assembly as provided by the manufacturer. For example: An industrial machine with a control panel, remote motors, sensors, controls, and other utilization equipment; and

(b) A product that has been modified internally or by an addition need have only those portions evaluated that were affected by the modification. For example: A switchboard with multiple sections that has a section added would only need the new section, the one section immediately adjacent, and any control modifications evaluated.

~~((48))~~ (46) Each unit that receives a field evaluation mark applied by the field evaluation laboratory must have sufficient inspections and/or testing completed to ensure it is in essential conformance with the applicable product standard(s).

~~((49))~~ (47) The laboratory may perform the preliminary evaluation in the manufacturer's facility. Final evaluation and acceptance of the product must be made on-site at the location of final installation, unless waived by the department.

Field evaluation mark.

~~((50))~~ (48) Only laboratory personnel may apply the field evaluation mark after final acceptance of the product. The field evaluation label must be applied on-site at the location of the final installation, unless waived by the department.

~~((51))~~ (49) The field evaluation laboratory must have a system of controls and records for all field evaluation marks it applies. The records must include labels removed or otherwise voided.

~~((52))~~ (50) A field evaluated product may be relocated or fed from a different power source if not prohibited by the field evaluation mark or the field evaluation report.

~~((53))~~ (51) The field evaluation mark must:

(a) Not be readily transferable from one product to another;

(b) Be directly applied by the laboratory personnel to each unit of production in the form of labels or markings suitable for the environment and use of the product;

(c) Include the name or other appropriate identification of the certification laboratory; ~~(and)~~

(d) Include a unique evaluation laboratory reference number; and

(e) Include a reference to the evaluation report or other notation if there are any limitations of use noted within the report.

~~((54))~~ (52) The field evaluation laboratory must have a system of controls and records for all field evaluation marks it applies. The records must include labels removed or otherwise voided. See subsection (26) of this section.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-46B-520 Special occupancies—Theaters, motion picture and television studios, performance areas and similar areas.

WAC 296-46B-965 Training certificate required.

**WSR 12-21-104
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed October 23, 2012, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-17-122.

Title of Rule and Other Identifying Information: Apprenticeship rules, chapter 296-05 WAC.

Hearing Location(s): Spokane Community College, Apprenticeship and Journeyman Training Center, 2110 North Fancher, Spokane, WA 99212, on December 5, 2012, at 9:00 a.m.; and at the Department of Labor and Industries, 7273

Linderson Way S.W., Room S119, Tumwater, WA 98501, on December 6, 2012, at 1:00 p.m.

Date of Intended Adoption: January 22, 2013.

Submit Written Comments to: Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, e-mail sally.elliott@lni.wa.gov, fax (360) 902-5292, by 5 p.m. on December 6, 2012.

Assistance for Persons with Disabilities: Contact Sally Elliott by November 23, 2012, at sally.elliott@lni.wa.gov or (360) 902-6411.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The apprenticeship program needs to proceed with rule making in response to chapter 308, Laws of 2011 (SB 5584) and chapter 21, Laws of 2011 (E2SHB 1371).

The rule making will:

- Adopt an appeal process to comply with a new director's review for council decisions involving federal purposes.
- Amend language that designates the department, rather than the Washington state apprenticeship and training council, as the rule-making authority for apprenticeship.
- Amend language for consistency and to align the language with the new statutory requirements.
- Amend language to allow the director, rather than the governor, to appoint public members to the council.

Statutory Authority for Adoption: Chapter 49.04 RCW, chapter 308, Laws of 2011 (SB 5584) and chapter 21, Laws of 2011 (E2SHB 1371).

Statute Being Implemented: Chapter 49.04 RCW, chapter 308, Laws of 2011 (SB 5584) and chapter 21, Laws of 2011 (E2SHB 1371).

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: Jose Rodriguez, Tumwater, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule changes clarify language of the current rule without changing its effect and the contents of some changes are explicitly and specifically dictated by statute. Therefore, the department is exempt from conducting [a] small business economic impact statement under RCW 19.85.025(3) referencing RCW 34.05-.310 (4)(c),(d) and (e).

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule changes clarify language of the current rule without changing its effect and the contents of some changes are explicitly and specifically dictated by statute. Therefore, the department is exempt from conducting a cost-benefit analysis under RCW 34.05.328 (5)(b)(iii).

October 23, 2012

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 11-11-002, filed 5/4/11, effective 7/25/11)

WAC 296-05-001 Purpose, scope, and authority. (1) The Washington State Apprenticeship and Training Act (chapter 49.04 RCW) establishes the Washington state apprenticeship and training council (WSATC) as regulatory and designates as its administrative arm the apprenticeship section of the department of labor and industries. The WSATC, acting in compliance with chapter 49.04 RCW and in harmony with 29 C.F.R. Part 29 and 29 C.F.R. Part 30, has adopted these rules to:

- (a) Establish operating procedures for the WSATC;
 - (b) Establish standards for apprenticeship programs;
 - (c) Implement the intent and purpose of the Washington State Apprenticeship and Training Act;
 - (d) Perform other duties directed by the statute;
 - (e) Promote labor standards and the registration of approved programs to protect the welfare of the apprentice; and
 - (f) Encourage the establishment of apprenticeship programs and ~~((committees))~~ agreements.
- (2) These rules are necessary to:
- (a) Strengthen apprenticeship and training in the state of Washington;
 - (b) Facilitate approval and registration of apprenticeship and training programs;
 - (c) Explain factors related to apprenticeship and training in Washington state and federal laws;
 - (d) Establish procedures for presenting matters to the WSATC;
 - (e) Govern the WSATC's operation and ability to carry out its statutory obligations;
 - (f) Establish a specific procedure to resolve an impasse if a tie vote occurs on the WSATC; and
 - (g) Regulate registered apprenticeship and training programs.

AMENDATORY SECTION (Amending WSR 11-11-002, filed 5/4/11, effective 7/25/11)

WAC 296-05-005 Rule development. (1) In developing and adopting rules, the ~~((WSATC))~~ director of labor and industries:

- (a) Seeks the cooperation and assistance of all interested persons, organizations, and agencies affected by its rules.
- (b) Promotes the operation of apprenticeship programs to satisfy the needs of employers and employees for high quality training.
- (c) Recognizes that rapid economic and technological changes require that workers must be trained to meet the demands of a changing marketplace.
- (d) Recognizes employers will benefit if graduates of state approved apprenticeship programs are skilled workers trained to industry wide standards rather than the exclusive standards of an individual employer or group of employers.
- (e) Acknowledges that approved apprenticeship programs should be organized and administered to assure the maximum protection of apprentices' rights.

(f) Recognizes that the number of apprentices in an occupation or group of occupations in any geographic area must be sufficient to meet the needs of all employers.

(g) Promotes comprehensive training and a variety of work experiences relevant to the occupations and seeks to assure that during the approval process all apprenticeship standards are open to employers on an equal and nondiscriminatory basis.

(h) Recognizes that quality training, equal treatment of apprentices, and efficient delivery of apprenticeship training are best provided by registered apprenticeship programs.

(2) All amendments to this chapter must be developed and adopted according to the provisions of chapter 49.04 RCW, Apprenticeship Act; chapter 34.05 RCW, Administrative Procedure Act; and Executive Order 97-02. All proposed amendments to these rules must be approved by a two-thirds majority vote of regular WSATC members before they are published for public hearing. All WSATC members, the apprenticeship supervisor, committees and any other interested parties must be promptly notified, in writing, of any proposed rule amendments, public hearings on proposed rule amendments and new rule adoptions.

(3) The specific procedure(s) and form(s) for petitions requesting the making, amendment, or repeal of a rule are in chapter 34.05 RCW, as are the specific procedure and form for requesting declaratory rulings.

(4) Such petitions and requests must be addressed to:

The Washington State Apprenticeship and Training Council

Attention: Supervisor of Apprenticeship and Training
 Department of Labor and Industries
 Post Office Box 44530
 Olympia, Washington 98504-4530
 Or e-mail address: apprentice@LNI.wa.gov

AMENDATORY SECTION (Amending WSR 11-11-002, filed 5/4/11, effective 7/25/11)

WAC 296-05-007 Rules of procedure. All hearings and adjudication, under chapter 49.04 RCW and these rules, shall be conducted according to chapter 34.05 RCW, the Administrative Procedure Act and chapter 10-08 WAC, Model Rules of Procedure. The chair (or designee) is the presiding officer for adjudicative proceedings, held before the WSATC. The WSATC may either adjudicate matter(s) itself, or refer matter(s) to the office of administrative hearings for initial adjudication.

If the initial adjudication is before the WSATC, the WSATC will enter a final order. If the initial adjudication has been held at the office of administrative hearings, the administrative hearings judge shall issue an initial order. The WSATC, upon review of the initial order shall enter the final order. An initial order shall become final without further WSATC action five business days after the next regular quarterly meeting unless:

- (1) The WSATC upon its own motion determines that the initial order should be reviewed; or
- (2) A party to the proceedings files a petition for review of the initial order.

The WSATC, upon review of the initial order shall enter the final order. The WSATC may appoint a person to review the initial order and prepare and enter the final WSATC order.

(3) Final WSATC orders or decisions affecting registration and oversight of apprenticeship programs and agreements for federal purposes may be appealed within thirty calendar days to the director of the department pursuant to the following:

(a) An appellant must file with the director an original and four copies of the notice of appeal.

(i) The notice of appeal must specify findings and conclusions at issue in the appeal.

(ii) The director or designee shall serve notice of receipt of the appeal, including copies of the appeal on all parties within five business days from date of receipt.

(iii) The respondent parties may file with the director or designee written arguments within thirty calendar days after the date the notice of receipt of appeal was served upon them.

(b) The director or designee shall review the record in accordance with the Administrative Procedure Act, chapter 34.05 RCW. The director or designee shall issue a final decision affirming, modifying, or reversing the WSATC final order or decision or may remand the matter to the WSATC for further proceedings.

(c) Any aggrieved party may appeal the final decision to superior court pursuant to chapter 34.05 RCW. If no party appeals within the period set by RCW 34.05.542, the director's decision is final and binding on all parties.

AMENDATORY SECTION (Amending WSR 01-22-055, filed 10/31/01, effective 1/17/02)

WAC 296-05-100 WSATC composition. (1) The director of the department appoints three voting representatives each from employer and employee organizations, respectively. Each member shall be appointed for a three-year term.

(2) The ((governor shall appoint, subject to confirmation by the senate, a voting)) director of labor and industries shall also appoint a public member to the apprenticeship council for a three-year term.

(3) The WSATC may also include ex officio members. These members have the right to participate in the discussion of any matter before the council but they may not vote.

(4) An appointed member shall remain on the council until replaced by a qualified successor. When a vacancy does occur, it shall be filled for the remaining portion of the vacated term.

AMENDATORY SECTION (Amending WSR 01-22-055, filed 10/31/01, effective 1/17/02)

WAC 296-05-107 Additional duties for the supervisor-administrator of WSATC. (1) In addition to being the council secretary, the apprenticeship supervisor (supervisor) is the WSATC administrator. As WSATC administrator, the supervisor must:

(a) Perform the duties listed in RCW 49.04.030;

(b) Register all apprenticeship agreements that comply with the rules in this chapter;

(c) Review apprenticeship programs and recommend cancellation of any committee program, or plant program previously registered which is not operated in conformity with its apprenticeship standards; and

(d) Receive all documents concerning apprenticeship or training agreements (including revisions to) or any other matters affecting apprenticeship or training.

All written correspondence to the supervisor should be addressed to:

Supervisor of Apprenticeship and Training
Department of Labor and Industries
Apprenticeship Section
P.O. Box 44530
Olympia, Washington 98504-4530

(2) The supervisor and the supervisor's staff:

(a) May be consulted on any matters concerning apprenticeship and training and will provide on request, any information concerning apprenticeship and training available to them.

(b) Will conduct systematic reviews of the operation of all programs and investigate any discrepancies between the actual and required operations of any program. The supervisor will notify the noncompliant ((committee)) program sponsor of any violation.

(c) May recommend sanctions including cancellation of a program not in compliance with its approved program standards.

(d) Assists in the resolution of any complaints against committees or other organizations administering apprenticeship agreements, ((which have been)) filed with the WSATC by apprentice(s) who have completed his/her initial probationary period.

(e) Must investigate any discrepancies of all complaints as specified in WAC 296-05-009.

(f) Conducts compliance reviews as specified in WAC 296-05-011.

AMENDATORY SECTION (Amending WSR 11-11-002, filed 5/4/11, effective 7/25/11)

WAC 296-05-209 Voting. (1) A quorum is two-thirds of the WSATC members entitled to vote.

(2) All council members appointed by ((either)) the director ((or the governor)) are voting members of the council. Ex officio members may not vote on any issue.

(3) To resolve tie votes, the chair shall establish a standing tie-breaker committee. The committee shall be comprised of an employer representative, an employee representative, and the public member on the WSATC. In case of a tie vote on any proposed standards brought before the WSATC, the tie-breaker committee shall meet or confer, review the record, and render a decision within thirty calendar days. The supervisor or a designee of the supervisor shall act as secretary to the committee and furnish all information necessary for a decision.

WSR 12-21-105
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed October 23, 2012, 11:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-17-123.

Title of Rule and Other Identifying Information: Chapter 296-17 WAC, General reporting rules, audit and record-keeping, rates and rating system for Washington workers' compensation insurance, and chapter 296-17A WAC, Classifications for Washington workers' compensation insurance.

Hearing Location(s): Department of Labor and Industries (L&I), 7273 Linderson Way S.W., Room S119, Tumwater, WA 98501, on November 27, 2012, at 10:00 a.m.

Date of Intended Adoption: December 4, 2012.

Submit Written Comments to: Doug Stewart, P.O. Box 44140, Olympia, WA 98504-4140, e-mail Doug.Stewart@lni.wa.gov, fax (360) 902-4788, by 5:00 p.m., November 27, 2012.

Assistance for Persons with Disabilities: Contact office of information and assistance by November 21, 2012, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington horse racing commission (WHRC) and the Horseman's Benevolent Protection Association (HBPA) asked that L&I work with them to restructure horse racing industrial insurance reporting and classification rules to better address exposure by allowing reporting for licensed exercise riders, licensed pony riders, and any other licensed employee employed by a licensed trainer to be based on a per horse, per day basis for race track activity. Off track/farm activity would be reported per number of employees per day. Grooms or assistant trainers would be reportable on a total of grooms or assistant trainers on a per month or per day basis for race track and/or off track/farm activity. The department will repeal some existing horse racing classifications, create five new subclassifications, create new horse racing rates as a result, and amend the special industry reporting rule to accommodate the new reporting structures.

Reasons Supporting Proposal: The WHRC and HBPA informed the department that their industry is in danger of losing a substantial number of participants as a result of the present reporting and rating structure. They believe these changes will encourage more participation in the industry from those inside and outside Washington state.

Statutory Authority for Adoption: RCW 51.04.020, 51.16.035, 51.16.210.

Statute Being Implemented: RCW 51.16.035.

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 department has requested legislation for 2013 which amends RCW 51.16.210 to give the WHRC and L&I authority in the future to adjust the premium rating structure and reporting method for horse racing employments in rule.

Name of Proponent: WHRC, Horseman's Benevolent Protection Association, public.

Name of Agency Personnel Responsible for Drafting: Jo Anne Attwood, Tumwater, Washington, (360) 902-4777; Implementation: Doug Stewart, Tumwater, Washington, (360) 902-4826; and Enforcement: Victoria Kennedy, Tumwater, Washington, (360) 902-4997.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.310 (4)(f) and do not change current coverage options for employers and workers.

A cost-benefit analysis is not required under RCW 34.05.328. Since the proposed rules do not change any existing coverage options for employers or workers and adjust fees pursuant to legislative standards, they are exempted by RCW 34.05.328 (5)(b)(vi) from the requirement for a cost-benefit analysis.

October 23, 2012

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

WAC 296-17-31021 Units of exposure. (1) What is a "unit of exposure?"

A unit of exposure is the measure which is used to help determine the premium you will pay. For most businesses the unit of exposure is the *hours* worked by their employees. Because not all employees are compensated based on the hours they work, we have developed reporting alternatives to make reporting to us easier. Those alternatives are outlined in subsection (2) of this section. In other cases, the department *may* authorize some other method in assuming workers hours for premium calculation purposes.

(2) What are the alternatives to actual hours worked?

The exceptions are:

- **Apartment house managers, caretakers, domestic, home care or similar employees:** To determine the number of hours you need to report to us, divide an employee's total compensation, including housing and utility allowances, by the average hourly wage for the classification. The total number of work hours to be reported for each employee is not to exceed 520 hours per quarter. You will need to call us at ((~~3~~)360(~~3~~))-902-4817 to obtain average hourly wage information.
- **Commission employees - Outside (such as, but not limited to, real estate and insurance sales):** You must select one of the following methods to report your commission employees - Outside:
 - Actual hours worked; or
 - Assumed hours of eight hours per day for part-time employees or one hundred-sixty hours per month for full-time employees.

All outside commission employees of an employer must be reported by the same method. You cannot report some outside commission employees based on

the actual hours they work and others using the eight hours per day for part-time employees or one hundred-sixty hours per month for full-time employees method.

- **Drywall - Stocking, installation, scrapping, taping, and texturing:** Premiums are based on material installed/finished rather than the hours it took to install/finish the drywall.
- **Horse racing - Excluding jockeys:** Employers in the horse racing industry pay premiums on employees based on a type of license their employees hold on a monthly or daily rate rather than the hours the employees work. Premiums are collected by the Washington horse racing commission (~~(at the time of licensing)~~).
- **Jockeys:** Report ten hours for each race/mount or for any day in which duties are reported.
- **Pilots and flight crew members:** Pilots and flight crew members having flight duties during a work shift including preflight time shall have premium calculated by utilizing daily readings logged per federal requirements of the aircraft tachometer time: Provided, That if the total tachometer time for any day includes a fraction of an hour, the reportable time will be increased to the next full hour: Provided further, That pilots and flight crew members who assume nonflying duties during a work shift will have premium calculated in accordance with the appropriate rules and classifications applicable to nonflight duties.
- **Race car drivers:** Report ten hours for each race/heat.
- **Salaried employees:** You must select one of the following methods to report your salaried employees:
 - Actual hours worked; or
 - Assumed hours of one hundred-sixty hours per month.

All salaried employees of an employer must be reported by the same method. You cannot report some salaried employees based on the actual hours they work and others using the one hundred sixty hours per month method. Provided further, as in the case of contract personnel employed by schools and/or school districts, the school or school district shall report actual hours worked for each employee, one hundred sixty hours per month for each employee, or the department *may* authorize some other method in assuming workers hours for premium calculation purposes.

(3) Can I use assumed work hours for piece workers?

No, if you employ piece workers you must report the actual hours these individuals work for you unless another unit of exposure is required.

Example: *If you have employees engaged in drywall work you would report and pay premiums on the basis of the square footage of the material they installed not the hours they worked.*

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

WAC 296-17-35203 Special reporting instruction. (1) Professional and semiprofessional athletic teams. Athletes assigned and under contract to a Washington-domiciled sports team are mandatorily covered by Washington industrial insurance. Athletes assigned to a Washington-domiciled sports team but under contract with a parent team domiciled

outside of the state are mandatorily covered by Washington industrial insurance unless the player is eligible for coverage in another state, and there is a valid coverage agreement as described below.

A player is eligible for coverage in another state only when both the player and the employer agree in writing that the employment is principally localized in that state.

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 cannot agree to be under California coverage since California doesn't qualify as a state in which the player competes in regularly scheduled games.

(a) Upon request, the department will provide forms to the owners of professional and semiprofessional sports teams for entering into agreements for both the sport player and the sport team. These agreements are referred to as "coverage agreements." Unless coverage is refused in the alternative state, the coverage agreement will determine the worker's home state for workers' compensation coverage.

(b) When a sport team and a player agree to workers' compensation coverage in another state, the following rules apply:

Sport player coverage agreement:

(i) A sport player coverage agreement must be signed by the team (employer) and each individual player (worker) covered out-of-state. Workers' compensation premiums for any work performed by the player before the agreement was signed must be paid to the department. To be valid, an agreement must be:

- Signed by both parties, dated, and show the name of the state where coverage is provided.
- Agree that the player's employment is principally located in that state.
- Kept as part of the employer's records for at least three years after the player is released from the team.

(ii) The employer must provide the department a copy of a sport player coverage agreement when requested. Employers who do not provide the department copies of a sport player coverage agreement when requested are considered not to have secured payment of compensation as required and all premiums and penalties allowed for in Title 51 RCW will apply.

(iii) If the employers' out-of-state workers' compensation insurer rejects an injury claim because the player is a Washington worker, the employer is considered not to have secured payment of compensation as required and all premium and penalties allowed for in Title 51 RCW apply.

Sport team coverage agreement:

(c) A sport team coverage agreement must be signed by the employer (team) and the qualifying out-of-state workers' compensation insurer. Workers' compensation premiums for work performed before the agreement was signed must be paid to the department. To be valid, an agreement must:

- Be signed by both parties, dated, and show the name of the state where coverage is provided.
- Specify that the team's players are principally localized in that state.

- Specify the insurer agreeing to provide coverage for a team based in Washington.

(d) The sport team coverage agreement must be signed annually. Copies of the agreement along with a current copy of the team's out-of-state insurance policy must be submitted to the department of labor and industries every year the out-of-state coverage is provided.

Premium payments are required for any work performed by Washington players prior to the date the department receives copies of any year's current sports teams' coverage agreement and proof of out-of-state coverage.

(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 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 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 canceled 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:

(A) The employers' unified business identification account number (UBI).

(B) Identification of the landowner, firm, or primary contractor who awarded the contract, including the name, address, and phone number of a contact person.

(C) The total contract award.

(D) Description of the forest, range, or timber land services work to be performed under terms of the contract.

(E) Physical location/site where the work will be performed including legal description.

(F) Number of acres covered by the contract.

(G) Dates during which the work will be performed.

(H) 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, in addition to the required informational report described in (e)(i) of this subsection, report the payroll and hours worked under the contract, and submit 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 Washington 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 depart-

ment may verify reporting of contractors by way of an on-site visit to an employer's 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' accounts on-line 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
Olympia, 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 296-17A-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:

$$\text{Total owner hours} \div (\text{owner hours} + \text{worker hours}) = \% \text{ of owner discount.}$$

$$\% \text{ of owner discount} \times (\text{total footage of job} - \text{subcontracted footage, if any}) = \text{Total owner deduction of footage.}$$

(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 that find errors in their reporting and paying premiums, and that 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;
- Clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more;
- Nursing homes, as defined and which come within the scope of chapter 18.51 RCW;
- Birthing centers, which come within the scope of chapter 18.46 RCW;
- Psychiatric or alcoholism hospitals, which come within the scope of chapter 71.12 RCW;
- 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 44140, Olympia, Washington, 98504.

(8) Rules concerning work by Washington employers outside the state of Washington (extraterritorial coverage).

(a) **General definitions.** For purposes of this section, the following terms mean:

(i) "Actual hours worked" means the total hours of each Washington worker's composite work period during which work was performed by the worker beginning with the time the worker's work day commenced, and ending with the quitting time each day excluding any nonpaid lunch period.

(ii) "Work day" means any consecutive twenty-four-hour period.

(iii) "Temporary and incidental" means work performed by Washington employers on jobs or at job sites in another state for thirty or fewer consecutive or nonconsecutive full or partial work days within a calendar year. Temporary and incidental work days are calculated on a per state basis. The thirty-day temporary and incidental period begins on January 1 of each year.

(iv) "Proof of out-of-state coverage" means a copy of a valid certificate of liability insurance for workers' compensation issued by:

(A) An insurer licensed to write workers' compensation insurance coverage in that state; or

(B) A state workers' compensation fund in the state in which the employer will be working.

Note: Most certificates are written for a one-year period. The employer must provide the department with a current certificate of liability insurance for workers' compensation covering all periods the employer works in another state. If the policy is canceled, the employer must provide the department with a current in-force policy.

(v) "Worker" means every person in this state who is engaged in the employment of an employer under Title 51 RCW whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer whether by way of manual labor or otherwise.

(vi) "Employer" means any person, body of persons, corporate or otherwise, and the legal representatives of a deceased employer, all while engaged in this state in any work covered by the provisions of Title 51 RCW, by way of trade or business, or who contracts with one or more workers, the essence of which is the personal labor of such worker or workers.

(b) **Does a Washington employer have to pay premiums in both states while Washington workers are temporarily working in another state?** A Washington employer must continue to pay Washington premiums for Washington

workers performing temporary and incidental work in another state. If the Washington employer has Washington workers who work for more than thirty days in another state, that employer will not need to pay premiums in Washington for work in the other state during the calendar year, as long as that employer fulfills the following requirements:

(i) Provides the department with proof of out-of-state coverage for the Washington workers working out-of-state.

(ii) Keeps the policy continuously in force from the date the Washington employer's work exceeds the temporary and incidental period until the date the Washington employer no longer has Washington workers working in the other state. Failure to maintain a policy at the required level of workers' compensation coverage for the number of Washington workers working out-of-state may subject the Washington employer to payment of all premiums, penalties, and interest dues in the state of Washington.

(iii) For the first quarterly reporting period and all subsequent quarters during the same calendar year following the date the Washington employer's work exceeds the temporary and incidental period in the other state, the Washington employer must file a supplemental report of out-of-state work with their workers' compensation employer's quarterly report with the department. This supplemental report is available at: <http://www.LNI.wa.gov/ClaimsIns/Insurance/File/ExtraTerritorial/Default.asp>

(iv) Subitems (b)(i), (ii), and (iii) of this subsection must be met in each state in which the Washington employer has Washington workers working in excess of the temporary and incidental period.

Note: Workers' compensation coverage requirements vary widely among states. Washington employers should contact the regulatory agency in other states to determine the appropriate premium and coverage obligations in those states.

(c) **What if a Washington employer knows the Washington workers' work in another state will exceed the temporary and incidental period?** If the Washington employer knows their Washington workers will be working in another state in excess of the temporary and incidental period, the employer must immediately provide the department with proof of out-of-state coverage in order to avoid Washington premium liability for hours worked during the temporary and incidental period.

Reminder: The temporary and incidental period applies separately to each state in which the Washington employer worked.

(d) **What if a Washington employer anticipates its out-of-state work will exceed the temporary and incidental period, but that does not occur?** If a Washington employer did not pay workers' compensation premium to Washington during the temporary and incidental period, and at the end of the calendar year Washington workers of the Washington employer had worked fewer than thirty consecutive or nonconsecutive days in another state, by the filing of the fourth quarter report, the Washington employer must file amended reports for the calendar year. The employer may be required to pay Washington premiums, penalties, and interest. The fourth quarter report is due by January 31 of the following year.

(e) **What records must the employer keep while employing Washington workers in another state?** In addition to filing the supplemental report of out-of-state work, the Washington employer is required to keep the same records that are kept for Washington workers working in Washington. The records are listed in WAC 296-17-35201 and must be provided at the time of audit to any authorized representative of the department who has requested them.

(f) **What reports does a Washington employer file to avoid paying Washington workers' compensation premiums when employing Washington workers in another state for work that exceeds temporary and incidental?** A Washington employer must submit the workers' compensation employer's quarterly report and a supplemental report of out-of-state work to the department for each state in which that employer has Washington workers performing work. The supplemental report must include the following information:

(i) The Washington employer's unified business identification number (UBI).

(ii) The Washington employer's department account identification number.

(iii) The Social Security numbers for those Washington worker(s) performing work out-of-state.

(iv) The last name, first name, and middle initial of those Washington worker(s) performing work out-of-state.

(v) The gross payroll paid during the quarter for those Washington worker(s) performing work out-of-state.

(vi) The Washington workers' compensation risk classification(s) that would have applied for each Washington worker performing work out-of-state.

(vii) The total number of hours that each Washington worker performed work out-of-state during the quarter.

(viii) In addition to completing the supplemental report of out-of-state work, the Washington employer must keep a record of all contracts awarded and worked under each state. Copies of pertinent records must be made available to auditors in the event of an audit.

(g) **Where do Washington workers file their workers' compensation claims if injured in the course of employment outside of Washington state?** Washington workers may file their claim in the state where they were injured or in Washington state.

Washington employers must inform their Washington workers of their right to file for workers' compensation benefits in Washington or the state of injury.

The cost of these claims, if accepted by the department and assigned to the Washington employer's account, will be used in the calculations that determine the employer's experience factor and the appropriate risk classification base rate.

(h) **If the Washington employer's work in another state exceeds the temporary and incidental period, may the Washington employer obtain a credit or refund for the temporary and incidental period that workers' compensation premiums were paid to Washington?** Yes, but only if the Washington employer:

(i) Obtained workers' compensation insurance for all hours worked in the other state during the calendar year;

(ii) Provides proof of out-of-state coverage;

(iii) Filed the appropriate quarterly reports with the department when due; and

(iv) Otherwise complied with all statutory and regulatory requirements of Washington state.

(9) **Special for-hire taxi/industry rules.** All for-hire vehicles must be covered for workers' compensation insurance. The owner of the vehicle is responsible for the workers' compensation insurance premiums. Those businesses that provide only cabulance or limousine services must report actual hours worked.

(a) **What is the unit of exposure for taxis?** Flat rate by driver - The rate is based on four hundred eighty hours per driver each quarter.

Flat rate by vehicle - The rate is based on nine hundred sixty hours per vehicle each quarter.

Actual hours - The rate is based on actual hours worked.

(b) **Can I use a flat rate for reporting some vehicles and actual hours for reporting other vehicles?** No, you must choose to report using only one of the three methods: Flat rate per driver, flat rate per vehicle, or actual hours worked. Owners who choose to report by driver or by actual hours worked must maintain verifiable records, such as lease agreements or payroll records. Where verifiable records are not available or not maintained, the owner must pay premiums on the flat rate of nine hundred sixty hours per vehicle each quarter.

(c) **What happens if premiums are not paid?** If the for-hire/taxi vehicle owner does not pay premiums, the department will report nonpayment to the department of licensing. The department of licensing will suspend or revoke the for-hire vehicle certificate until the premiums are paid.

(10) Horse racing industry rules. These rules apply to persons licensed by the Washington horse racing commission (WHRC) and governed by WAC 260-36-250.

(a) Who is responsible for paying industrial insurance premiums?

(i) The trainer will be responsible to pay the industrial insurance premiums owed. Premiums will be paid to the WHRC monthly, at the end of the coverage month or before the trainer leaves the track taking his/her horses. WHRC will submit premiums to the department of labor and industries on a quarterly basis. The employee must be properly licensed by the WHRC for the duties being performed. This includes all exercise riders and pony riders who need steward approval of their license application, whether at the track or at the farm.

(ii) Licensed trainers shall be assessed;

(A) One unit of premiums in classification 6625 for each licensed groom or assistant trainer employed at any one time;

(B) One unit of premiums in classification 6626 for licensed exercise riders and pony riders charged per stall for each day the trainer has a horse housed in a stall at a licensed track during a licensed meet; and

(C) One unit of premiums in classification 6627 for licensed exercise riders and pony riders for each calendar day a licensed exercise rider or pony rider works under contract for the trainer at a location other than at a licensed track during a licensed meet.

(b) What does the trainer do when an employee leaves the job? Trainers must notify the WHRC within forty-eight hours when any employee leaves their employ. If a trainer

fails to notify the WHRC timely, the trainer will be responsible for the full premium payment until notification is made.

(c) When are track employees covered?

(i) Track employees are only covered on the grounds of a Washington race track during its licensed race meet and periods of training. The licensed race meet and periods of training apply to that period of time when the WHRC has authority on the grounds, including the period before the live race meet begins, when horses are exercised in preparation for competition, and through the end of the licensed race meet.

(ii) Covered track employees who are licensed exercise riders or pony riders may work off the grounds of a Washington race track, but only after obtaining a farm employee license. The trainer must notify the WHRC when the employee will be working off the grounds, so that the additional per-day farm employee premium can be calculated and assessed to the trainer for each day the track employee works off the grounds.

(iii) Employees working on the grounds of a Washington race track prior to or after this period must be covered as farm employees (classification 6627) to be able to make a claim against the horse racing industry account, or the trainer can cover such employees under another account (classification 7302).

(d) Who can be covered under the farm employee classification (6627)?

(i) Licensed exercise riders and pony riders working at the farm must be assigned to a trainer and not the farm. Such employees cannot be assigned to the owner of the farm or training center unless the owner is licensed as a trainer.

(ii) Covered farm employees who are licensed exercise riders or pony riders may come to the Washington race track to assist the trainer during the live race meet and periods of training. As long as a farm employee is covered at the farm,

and the trainer notifies the WHRC when the employee will be working at the track, the farm employee may work at the track without additional premium being owed.

(e) Are employees covered while working in another state?

(i) Trainers with employees from Washington may continue coverage when they are at another recognized race track in another state if the other jurisdiction has a reciprocal agreement with the state of Washington. The trainer must pay the premiums for grooms and assistant trainers in classification 6625, and for exercise riders and pony riders at the farm in the farm classification, 6627. For a list of states with reciprocal agreements with the state of Washington, see WAC 296-17-31009.

(ii) Trainers will need to continue to report Washington employees to the WHRC prior to the start of each month so an assessment can be made.

(iii) Failure to report, or to report correctly, may result in the trainer being referred to the stewards or the executive secretary of the WHRC for action.

(iv) Track employees hired in another state or jurisdiction are not Washington employees. They are to be covered in the state or jurisdiction they were hired in. It is the trainer's responsibility to obtain coverage in the other state or jurisdiction.

(f) Must horse owners pay industrial insurance premiums in Washington? Licensed owners shall be assessed one hundred fifty dollars per year for one hundred percent ownership of one or more horses. Partial owners shall be assessed prorated amounts of the one hundred fifty dollar fee. In no event shall a licensed owner be required to pay more than one hundred fifty dollars. This fee helps fund workers' compensation coverage for injured workers. It does not extend any coverage to owners.

NEW SECTION

WAC 296-17-89507 Horse racing rates. Horse racing industry industrial insurance accident fund, stay at work fund, medical aid fund, supplemental pension fund and composite rate by class.

Base Rates Effective January 4, 2013

Class	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund	Composite Rate
6618*	80.000	2.0000	67.0000	1.0000	150.00
6625**	80.5000	1.8800	56.5900	0.1600	139.1300
6626***	0.6800	0.0200	0.6000	0.0100	1.3100
6627****	9.0200	0.2600	7.8200	0.0900	17.1900

*This rate is calculated per horse.

**This rate is calculated per month.

***This rate is calculated per horse per day.

****This rate is calculated per day.

Note: These rates are not subject to experience rating or retrospective rating.

NEW SECTION**WAC 296-17A-6625 Classification 6625.****6625-00 Horse racing - Grooms and assistant trainers (major track)
(to be assigned only by the horse racing underwriter)**

Applies to all licensed grooms and licensed assistant trainers employed by a licensed trainer. Coverage applies at a race track, and at a farm or training center. Duties anticipated in this classification include, but are not limited to:

- Cleaning stalls;
- Feeding and watering horses;
- Bandaging and applying tack;
- Applying topical dressings;
- Escorting horses to and from the track for racing;
- Entering horses to run;
- Saddling horses in the paddock for racing; and
- Supervising the other licensed employees of the trainer.

This classification excludes exercise riders, pony riders, and any other employee of the trainer.

Premiums are assessed based on each groom or assistant trainer employed in the coverage month, or on a per day basis. The daily rate is ten percent of the monthly rate. Premiums are paid monthly to the Washington horse racing commission.

If working at a farm or training center, coverage in this classification is limited to licensed duties only. Any other farm work must be covered in the appropriate agricultural classification.

Jockeys while racing are not included in this classification.

**6625-01 Horse racing - Grooms and assistant trainers (nonprofit track)
(to be assigned only by the horse racing underwriter)**

Applies to all licensed grooms and licensed assistant trainers employed by a licensed trainer. Coverage applies at a race track, and at a farm or training center. Duties anticipated in this classification include, but are not limited to:

- Cleaning stalls;
- Feeding and watering horses;
- Bandaging and applying tack;
- Applying topical dressings;
- Escorting horses to and from the track for racing;
- Entering horses to run;
- Saddling horses in the paddock for racing; and
- Supervising the other licensed employees of the trainer.

This classification excludes exercise riders, pony riders, and any other employee of the trainer.

Premiums are assessed based on each groom or assistant trainer employed in the coverage month, or on a per day basis. The daily rate is ten percent of the monthly rate. Premiums are paid monthly to the Washington horse racing commission.

If working at a farm or training center, coverage in this classification is limited to licensed duties only. Any other farm work must be covered in the appropriate agricultural classification.

Jockeys while racing are not included in this classification.

NEW SECTION**WAC 296-17A-6626 Classification 6626.****6626-00 Horse racing - Track (major track)
(to be assigned only by the horse racing underwriter)**

Applies to licensed exercise riders, licensed pony riders and any other licensed employee employed by a licensed trainer and working at a Washington race track during the race track's licensed race meet and periods of training. Duties anticipated in this classification include, but are not limited to:

- Leading/escorting a horse around the track during morning training;
- Escorting a horse from the saddling paddock to the starting gate during the post parade; escorting the horse from the track to the stable area after the running of the race;
- Saddling a race horse prior to a morning workout;
- Riding a race horse on the track during morning conditioning from a jog to a full-speed workout;
- Unsaddling the race horse and cleaning tack used following the morning workout.

This classification excludes all grooms, assistant trainers, and excludes exercise riders and pony riders working off the grounds of a Washington race track.

Premiums to cover licensed exercise riders, pony riders, and any other employee working for a licensed trainer on the grounds of a Washington race track will be assessed on the number of horses, per day, in a month a licensed trainer has horses on the grounds. The number of horses will include all horses of the trainer on the grounds. Premiums will be paid at the end of each month, or before the trainer leaves the track taking his/her horses.

Jockeys while racing are not included in this classification.

**6626-01 Horse racing - Track (nonprofit track)
(to be assigned only by the horse racing underwriter)**

Applies to licensed exercise riders, licensed pony riders and any other licensed employee employed by a licensed trainer and working at a Washington race track during the race track's licensed race meet and periods of training. Duties anticipated in this classification include, but are not limited to:

- Leading/escorting a horse around the track during morning training;
- Escorting a horse from the saddling paddock to the starting gate during the post parade; escorting the horse from the track to the stable area after the running of the race;
- Saddling a race horse prior to a morning workout;
- Riding a race horse on the track during morning conditioning from a jog to a full-speed workout;
- Unsaddling the race horse and cleaning tack used following the morning workout.

This classification excludes all grooms, assistant trainers, and excludes exercise riders and pony riders working off the grounds of a Washington race track.

Premiums to cover licensed exercise riders, pony riders, and any other employee working for a licensed trainer on the grounds of a Washington race track will be assessed on the number of horses, per day, in a month a licensed trainer has horses on the grounds. The number of horses will include all

horses of the trainer on the grounds. Premiums will be paid at the end of each month, or before the trainer leaves the track taking his/her horses.

Jockeys while racing are not included in this classification.

NEW SECTION

WAC 296-17A-6627 Classification 6627.

6627-00 Horse racing - Farm or training center (to be assigned only by the horse racing underwriter)

Applies to licensed exercise riders and licensed pony riders employed by a licensed trainer and working off the grounds of a Washington race track, at a farm or training center, or at an out-of-state race track. Duties anticipated in this classification are licensed duties only and include, but are not limited to:

- Leading/escorting a horse around the farm or training center;
- Saddling a race horse prior to a workout;
- Riding a race horse on the farm or training center during conditioning from a jog to a full-speed workout;
- Unsaddling the race horse and cleaning tack used following the morning workout.

This classification excludes all grooms and assistant trainers, and excludes exercise riders and pony riders, and any other employee of a trainer working at a Washington race track.

Premiums will be based on the number of employees, per day, multiplied by the number of days in the month the trainer reports the employee working. Trainers must report the anticipated work days and hours of work each day at the start of the month.

If working at a farm or training center, coverage in this classification is limited to licensed duties only. Any other farm work must be covered in the appropriate agricultural classification.

Jockeys while racing are not included in this classification.

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

WAC 296-17A-6708 Classification 6708.

6708-01 Jockeys

Applies to jockeys riding horses in a race, or working with the horses in any way, during the dates of a scheduled race meet. Coverage during a race meet is through election of optional coverage and is to be reported at ten hours per mount per race or ten hours per day if not riding in a race. Coverage outside the dates of a race meet is mandatory. Jockeys will be considered exercise riders when employed by a trainer and/or owner at a time other than during the dates of a scheduled race meet and are then reportable in the classification ((6614, 6616, or 7302 as)) that is appropriate ((†)) for their job duties.

6708-02 Professional motor vehicle or watercraft race drivers

Applies to professional motor vehicle/water craft race drivers during a competition. Coverage during a competition is mandatory and is subject to a division of hours as provided in the general exclusion section of the general reporting rules.

When not driving during competition, hours worked are reportable as appropriate to the work being performed:

- Maintenance of a racing motor vehicle and/or pit crew operations which are to be reported separately in classification 3411;

- Assembly of a racing motor vehicle which is to be reported separately in classification 3402; maintenance of a racing water craft and/or pit crew operations which are to be reported separately in classification 3414; assembly of a racing water craft which is to be reported separately in classification 2903, 3402 or 3511 as appropriate; and any other work usually done for this employer which is to be reported separately as appropriate to the employees usual job duties.

This classification excludes piloting an aircraft in a race which is to be reported separately in classification 6803 for a plane or 6801 for a hot air balloon.

Special note: Race car drivers are reported at ten hours for each race/heat.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-7302 Classification 7302.

7302-00 Farms: Livestock Animal stud service

Applies to establishments engaged in the raising of cattle, pigs, and horses for sale to others. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, tending and feeding animals, raising crops for feed, erecting or mending fences, breeding animals, transporting animals to or from market, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification also covers artificial insemination and veterinary care when performed by employees of an employer subject to this classification. This classification also applies to establishments that provide animal stud services for others.

This classification excludes contractors engaged exclusively in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301 and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as cleaning stalls, grooming or caring for animals, weeding or planting crops, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm ser-

VICES" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

7302-02 Riding academies

Applies to establishments engaged as riding academies which offer services such as, but not limited to, instruction on riding horses or on the care of animals and the rental of horses. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, tending and feeding animals, training animals, cleaning stalls and barn areas, raising crops for feed, erecting or mending fences, breeding animals, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification also covers artificial insemination and veterinary care when performed by employees of an employer subject to this classification.

This classification excludes contractors engaged exclusively in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301 and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as cleaning stalls, grooming or caring for animals, weeding or planting crops, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

7302-03 Boarding and/or training stables for pleasure or show horses

Applies to establishments that board and/or train pleasure or show horses for others. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, tending and feeding animals, cleaning stalls and barn areas, training animals, raising crops for feed, erecting or mending fences, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification.

This classification excludes contractors engaged exclusively in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301 and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as cleaning stalls, grooming or caring for animals, weeding or planting crops, irrigating and fertilizing. Generally the work involves manual labor

tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

7302-04 Centers or trainers for race horses - Unlicensed by WHRC

Applies to establishments or individuals who train race horses for others, but who are not licensed as trainers or training centers by the Washington horse racing commission. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, tending and feeding animals, cleaning stalls and barn areas, training animals, raising crops for feed, erecting or mending fences, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification.

This classification excludes individuals or centers that train nonrace horses which are to be reported separately in classification 7302-03; contractors engaged exclusively in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301; and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as cleaning stalls, grooming or caring for animals, weeding or planting crops, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

~~(7302-05 Parimutuel horse racing - Licensed employments, N.O.C.~~

~~Applies to employments licensed by the Washington horse racing commission who are not mandatorily covered under Washington workers' compensation insurance laws and are not covered by another classification. This classification is *only* for individuals such as, but not limited to, horse owners, trainers, farriers, and veterinarians, who hold specialty licenses issued by the commission. These individuals are generally owners of a business such as that of a farrier or training services. The business entity could be a proprietorship, partnership, joint venture, or corporation and may or may not have employees. The qualifying factor for this classification is that these individuals are licensed by the horse racing commission, are *not* mandatorily covered under Washington workers' compensation insurance laws, and are *not* included or covered by another classification. For example, a veterinarian who operates a veterinary clinic away from~~

~~a race track and treats various animals such as dogs, cats, eows, and horses would report owner coverage (if elected) in classification 6107, not in classification 7302-.)~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-17A-6614	Classification 6614.
WAC 296-17A-6615	Classification 6615.
WAC 296-17A-6616	Classification 6616.
WAC 296-17A-6617	Classification 6617.
WAC 296-17A-6622	Classification 6622.
WAC 296-17A-6623	Classification 6623.

WSR 12-21-108
PROPOSED RULES
TACOMA COMMUNITY COLLEGE

[Filed October 23, 2012, 12:37 p.m.]

Continuance of WSR 12-17-046.

Preproposal statement of inquiry was filed as WSR 12-08-015.

Title of Rule and Other Identifying Information: Final course grade appeal process.

Hearing Location(s): Tacoma Community College, Building 12-120, 6501 South 19th Street, Tacoma, WA 98466, on February 20, 2013, at 4:00 p.m.

Date of Intended Adoption: February 20, 2013.

Submit Written Comments to: Dr. Tim Stokes, Tacoma Community College, 6501 South 19th Street, Tacoma, WA 98466, e-mail tstokes@tacomacc.edu, fax (253) 566-5022, by February 6, 2013.

Assistance for Persons with Disabilities: Contact Cathie Bitz by February 13, 2013, cbitz@tacomacc.edu or (253) 566-5101.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To provide a structured, equitable process for students to appeal final course grades that may have been assigned in an arbitrary and capricious manner.

This continuance is necessary to provide additional opportunity for internal review.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

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

Name of Proponent: Tacoma Community College, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dr. Tim Stokes, Tacoma Community College, (253) 566-5022.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Policy is relevant to Tacoma Community College students only.

A cost-benefit analysis is not required under RCW 34.05.328. Policy is relevant to Tacoma Community College students only.

October 23, 2012
Mary A. Chikwinya
Vice-President for
Student Services

Chapter 132V-123 WAC

FINAL COURSE GRADE APPEAL PROCESS

NEW SECTION

WAC 132V-123-010 Definitions. For purposes of this chapter, the following definitions apply.

Appropriate dean or manager means the administrator responsible for the respective department offering the course which is under appeal.

Arbitrary or capricious manner means in a manner deemed to be inappropriately subjective or otherwise inconsistent with the learning assessment process stated on the syllabus.

Documentation means all materials relevant to the grade determination and to the grade appeal process. Examples include grade reports, graded work, syllabus, student/faculty correspondence, etc.

Final grade means the grade received in the course and reported to enrollment services.

Hearing committee means a group consisting of:

(a) Two students selected by the president of the associated student body.

(b) Two faculty members selected from four faculty elected each fall in instructional council to serve for the year.

(c) One instructional administrator, appointed by the executive vice-president for academic and student affairs.

Written appeal means a document that includes:

(a) A clear statement of why the student believes his or her final grade was not properly awarded.

(b) What the student has done to resolve the issue.

(c) What remedy the student is seeking.

Written communication means either electronic (TCC e-mail) or traditional correspondence.

NEW SECTION

WAC 132V-123-020 Informal resolution. If a student feels his or her final course grade was awarded incorrectly, in error, or in an arbitrary or capricious manner, his or her actions shall follow the steps below to address the discrepancy. Every effort will be made to resolve the discrepancy at the first level.

(1) Step 1.

(a) The student shall contact the instructor to discuss the student's concerns. This contact shall occur prior to the fifth instructional day of the next quarter. For a spring quarter grade this step may occur prior to the fifth instructional day in either of the following summer or fall quarters.

(b) This contact shall include:

(i) Discussing reasons the student believes there is a discrepancy;

(ii) Presenting other documentation that may have been overlooked in the determination of the final course grade.

(c) If the student believes his/her concern has not been adequately resolved in step 1, he/she may proceed to step 2.

(2) Step 2.

(a) The student shall contact the program/department chair or designated faculty member to discuss the student's concerns. This contact shall occur prior to the tenth instructional day of the next quarter.

(b) This contact shall include:

(i) Reasons the student believes there is a discrepancy;

(ii) Documentation;

(iii) The results of the meeting with the faculty member.

(c) The chair or designated faculty member will discuss the situation with the faculty member before giving the student his or her recommendation.

(d) The chair or designated faculty member will inform the student of his or her recommendation. This shall occur prior to the 15th instructional day of the next quarter. The chair or designated faculty member's recommendation is not binding.

(e) The chair or designated faculty member will inform the student of the formal appeal process if the chair's recommendation is not satisfactory to the student.

NEW SECTION

WAC 132V-123-030 First level of formal appeal. If a student is not satisfied with the informal resolution, he or she may begin the formal appeal.

(1) Step 1. The student must contact the appropriate dean or manager and present documentation and a written grade appeal. This contact shall occur prior to the 20th instructional day of the next quarter.

(2) Step 2. The dean or manager will investigate the grade appeal and provide written communication of the findings and decision to the faculty member and the student. The findings and decision shall be provided to the student within ten instructional days after receiving the written appeal. The investigation will include:

(a) Reviewing the faculty member's documentation;

(b) Reviewing the student's written appeal and documentation;

(c) Discussion with the student and faculty member individually or together.

NEW SECTION

WAC 132V-123-040 Second level of formal appeal. If either party is not satisfied with the first level of formal appeal decision, he or she may begin the second level of the formal appeal process.

(1) Step 1. The applicable party will present the executive vice-president for academic and student affairs with a written appeal of the first level decision and documentation. This appeal and documentation must be presented to the executive assistant for the executive vice-president within

five instructional days of receiving the first level decision from the dean or manager.

(2) Step 2. The executive vice-president or his or her designee will investigate the appeal. This investigation shall be completed within ten instructional days of receiving the appeal. The investigation will consist of a review of all student and faculty member documentation and the findings of the dean or manager.

(3) Step 3. The executive vice-president shall within ten instructional days of receiving the appeal:

(a) Make a final decision; or

(i) The final decision will be conveyed in writing to the student, faculty member, and dean.

(ii) Any decision made by the executive vice-president and pursuant to this section is a final agency decision.

(b) Convene a hearing committee pursuant to WAC 132V-123-010.

(i) The committee will hear testimony from the student and from the faculty member.

(ii) The committee will examine documentation.

(iii) A decision shall be made by majority vote in deliberations.

(iv) The decision shall be communicated to the student and the faculty member within five instructional days of the hearing after all testimony and documentation have been presented.

(v) Any decision made by the committee is a final agency decision.

WSR 12-21-109

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed October 23, 2012, 1:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-17-081.

Title of Rule and Other Identifying Information: New chapter 182-60 WAC, Patient decision aids.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at <http://maa.dshs.wa.gov/pdf/CherryStreetDirectionsNMap.pdf> or directions can be obtained by calling (360) 725-1000), on November 27, 2012, at 10:00 a.m.

Date of Intended Adoption: Not sooner than November 28, 2012.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on November 27, 2012.

Assistance for Persons with Disabilities: Contact Kelly Richters by November 19, 2012, TTY (800) 848-5429 or (360) 725-1307 or e-mail kelly.richters@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules define the process used by the HCA's medical director to independently assess and certify patient decision aids. In

addition, the proposed rules allow HCA to charge a fee to the certification applicant to defray the costs of the assessment and certification.

Reasons Supporting Proposal: These rules are necessary to implement ESHB 2318 regarding shared decision making.

Statutory Authority for Adoption: RCW 7.70.060, ESHB 2318.

Statute Being Implemented: ESHB 2318.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Wendy Boedigheimer, HCA, Legal and Administrative Services, (360) 725-1306; Implementation and Enforcement: Josiah Morse, HCA, Health Care Policy, (360) 725-0839.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The HCA has analyzed the proposed rules and concludes that they do not impose more than minor costs for affected small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules [review] committee or applied voluntarily.

October 23, 2012
Kevin M. Sullivan
Rules Coordinator

Chapter 182-60 WAC

PATIENT DECISION AIDS

NEW SECTION

WAC 182-60-005 Authority and purpose. Under RCW 7.70.060(4), the agency's medical director is authorized to independently assess and certify patient decision aids based on the International Patient Decision Aid Standards.

NEW SECTION

WAC 182-60-010 Definitions. When used in this chapter:

(1) **"Agency"** means the Washington state health care authority (HCA), created pursuant to chapter 41.05 RCW.

(2) **"Certification fee"** means a fee assessed by the agency to an individual or organization applicant requesting an independent review of a patient decision aid not already certified by an organization located in the United States and Canada and recognized by the agency's medical director.

(3) **"Certified patient decision aid"** means a patient decision aid, as defined in this section, for any medical condition or procedure, including abortion as defined in RCW 9.02.170 that:

(a) Is certified by one or more national certifying organizations recognized by the agency's medical director as using review criteria based on the International Patient Decision Aid Standards (IPDAS) developed by the IPDAS Collaboration;

(b) Has been evaluated based on the International Patient Decision Aid Standards by an organization located in the

United States and Canada and has current scores satisfactory to the agency's medical director in each of the following categories: Content criteria, development process criteria, and effectiveness criteria; or

(c) Is independently assessed and certified by the agency's medical director based on the International Patient Decision Aid Standards developed by the IPDAS Collaboration if a current evaluation is not available from an organization located in the United States and Canada.

(4) **"National certifying organization"** means a group, entity, or organization in the United States and Canada that uses the International Patient Decision Aid Standards developed by the IPDAS Collaboration to evaluate and certify patient decision aids, and that is determined, based on independent assessment of methods, reliability and validity by the agency's medical director, to meet the requirements in RCW 7.70.060.

(5) **"Patient decision aid"** means a written, audio-visual, or on-line tool that provides a balanced presentation of the condition and treatment options, benefits, and harms including, if appropriate, a discussion of the limits of scientific knowledge about outcomes and a means to acknowledge that the tool has been fully reviewed and understood.

NEW SECTION

WAC 182-60-020 National certifying organizations.

The agency's medical director will:

(1) Maintain a list of recognized national certifying organizations so that individuals or organizations seeking certification may identify organizations recognized by the agency's medical director as using the criteria of the International Patient Decision Aid Standards Collaboration and requiring a level of review of the validity and reliability of patient decision aids certified by the organization.

(2) Consider organizations recommended by applicants for inclusion in the list.

(3) Update the list as needed.

NEW SECTION

WAC 182-60-025 Review process and certification.

(1) The agency's medical director considers the most current International Patient Decision Aid Standards (IPDAS) developed by the IPDAS Collaboration for evaluation of a patient decision aid.

(2) A patient decision aid may be used if it is reviewed by a national certifying organization and has current scores satisfactory to the agency's medical director in each of the following categories: Content criteria, development process criteria, and effectiveness criteria.

(3) The applicant requesting review and certification must provide written documentation of the basis for certification as provided in subsection (1) of this section.

(4) The agency's medical director may contract for an assessment of the patient decision aid.

(a) The contract will:

(i) Be with an evidence-based organization or other appropriate entity; and

(ii) Provide an assessment to evaluate the patient decision aid based on the most current International Patient Deci-

sion Aid Standards developed by the IPDAS Collaboration using information provided by the applicant and the agency's medical director.

(b) The agency's medical director may use the results of the assessment in whole or part as the basis for a certification determination.

(5) The agency's medical director may establish minimum scores in each of the following criteria: Content criteria, development process criteria, and effectiveness criteria, based on IPDAS Collaboration criteria, necessary to qualify as a certified patient decision aid.

NEW SECTION

WAC 182-60-030 Certification fees. (1) The agency will charge a certification fee to the applicant to defray the costs of the assessment and certification under this chapter.

(a) Fees will be based on the cost of obtaining an assessment.

(b) One certification fee will apply to each review of a patient decision aid.

(2) Applicants requesting review and certification of a patient decision aid must pay a fee established by the agency to defray the cost of review by a contracted review organization or group.

WSR 12-21-110

PROPOSED RULES

HEALTH CARE AUTHORITY

(Medicaid Program)

[Filed October 23, 2012, 1:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-09-080.

Title of Rule and Other Identifying Information: WAC 182-530-1000 Outpatient drug program—General and 182-531-0100 Scope of coverage for physician-related and health care professional services—General and administrative.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at <http://maa.dshs.wa.gov/pdf/CherryStreetDirectionsNMap.pdf> or directions can be obtained by calling (360) 725-1000), on November 27, 2012, at 10:00 a.m.

Date of Intended Adoption: Not sooner than November 28, 2012.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on November 27, 2012.

Assistance for Persons with Disabilities: Contact Kelly Richters by November 19, 2012, TTY/TDD (800) 848-5429 or (360) 725-1307 or e-mail kelly.richters@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The HCA is performing the following actions: Amendment of these rules is necessary due to changes the HCA is making to WAC 182-

502-0005. The HCA is amending WAC 182-502-0005 to implement 42 C.F.R. 455.410 which mandates states to require all ordering, prescribing, or referring providers to be enrolled as participating providers.

Statutory Authority for Adoption: RCW 41.05.021.

Statute Being Implemented: RCW 41.05.021.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Jason R. P. Crabbe, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1346; Implementation and Enforcement: Chuck Agte (WAC 182-530-1000), (360) 725-1301 and Ellen Silverman (WAC 182-531-0100), (360) 725-1570, P.O. Box 45506, Olympia, WA 98504-5506.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The HCA has analyzed the proposed new and amended rules and determines they will not have an adverse economic impact on small businesses. The preparation of a comprehensive small business economic impact statement therefore is not required.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules [review] committee or applied voluntarily.

October 23, 2012

Kevin M. Sullivan

Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-530-1000 Outpatient drug program—

General. (1) The purpose of the outpatient drug program is to reimburse providers for outpatient drugs, vitamins, minerals, devices, and drug-related supplies according to (~~department~~) medicaid agency rules and subject to the limitations and requirements in this chapter.

(2) The (~~department~~) agency reimburses for outpatient drugs, vitamins, minerals, devices, and pharmaceutical supplies that are:

(a) Covered. Refer to WAC (~~388-530-2000~~) 182-530-2000 for covered drugs, vitamins, minerals, devices, and drug-related supplies and to WAC (~~388-530-2100~~) 182-530-2100 for noncovered drugs and drug-related supplies;

(b) Prescribed by a provider with prescriptive authority (see exceptions for family planning and emergency contraception for women eighteen years of age and older in WAC (~~388-530-2000~~) 182-530-2000 (1)(b), and over-the-counter (OTC) drugs to promote smoking cessation in WAC (~~388-530-2000~~) 182-530-2000 (1)(g);

(c) Prescribed by:

(i) A provider with an approved core provider agreement; or

(ii) A provider who is enrolled as a performing provider on an approved core provider agreement;

(d) Within the scope of an eligible client's medical assistance program;

(~~(e)~~) (e) Medically necessary as defined in WAC (~~388-500-0005~~) 182-500-0070 and determined according to

the process found in WAC ~~((388-501-0165))~~ 182-501-0165; ~~(and~~

~~((e))~~ (f) Authorized, as required within this chapter;

~~((f))~~ (g) Billed according to WAC ~~((388-502-0150))~~ 182-502-0150 and ~~((388-502-0160))~~ 182-502-0160; and

~~((g))~~ (h) Billed according to the requirements of this chapter.

(3) Coverage determinations for the ~~((department))~~ agency are made by the ~~((department's))~~ agency's pharmacists or medical consultants in accordance with applicable federal law. The ~~((department's))~~ agency's determination may include consultation with the drug use review (DUR) board.

~~((4) The department may not reimburse for prescriptions written by health care practitioners whose application for a core provider agreement (CPA) has been denied, or whose CPA has been terminated.~~

~~(5) The department may not reimburse for prescriptions written by non-CPA health care practitioners who do not have a current core provider agreement with the department when the department determines there is a potential danger to the client's health and/or safety.)~~

AMENDATORY SECTION (Amending WSR 12-18-062, filed 8/31/12, effective 10/1/12)

WAC 182-531-0100 Scope of coverage for physician-related and health care professional services—General and administrative. (1) The medicaid agency covers health care services, equipment, and supplies listed in this chapter, according to agency rules and subject to the limitations and requirements in this chapter, when they are:

(a) Within the scope of an eligible client's medical assistance program. Refer to WAC 182-501-0060 and 182-501-0065; and

(b) Medically necessary as defined in WAC 182-500-0070.

(2) The agency evaluates a request for a service that is in a covered category under the provisions of WAC 182-501-0065.

(3) The agency evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions as described in WAC 182-501-0169.

(4) The agency covers the following physician-related services and health care professional services, subject to the conditions in subsections (1), (2), and (3) of this section:

(a) Allergen immunotherapy services;

(b) Anesthesia services;

(c) Dialysis and end stage renal disease services (refer to chapter 182-540 WAC);

(d) Emergency physician services;

(e) ENT (ear, nose, and throat) related services;

(f) Early and periodic screening, diagnosis, and treatment (EPSDT) services (refer to WAC 182-534-0100);

(g) Reproductive health services (refer to chapter 182-532 WAC);

(h) Hospital inpatient services (refer to chapter 182-550 WAC);

(i) Maternity care, delivery, and newborn care services (refer to chapter 182-533 WAC);

(j) Office visits;

(k) Vision-related services (refer to chapter 182-544 WAC for vision hardware for clients twenty years of age and younger);

(l) Osteopathic treatment services;

(m) Pathology and laboratory services;

(n) Psychiatry and other rehabilitation services (refer to chapter 182-550 WAC);

(o) Foot care and podiatry services (refer to WAC 182-531-1300);

(p) Primary care services;

(q) Psychiatric services, provided by a psychiatrist;

(r) Psychotherapy services for children as provided in WAC 182-531-1400;

(s) Pulmonary and respiratory services;

(t) Radiology services;

(u) Surgical services;

(v) Cosmetic, reconstructive, or plastic surgery, and related services and supplies to correct physiological defects from birth, illness, or physical trauma, or for mastectomy reconstruction for post cancer treatment;

(w) Oral health care services for emergency conditions for clients twenty-one years of age and older, except for clients of the division of developmental disabilities (refer to WAC 182-531-1025); and

(x) Other outpatient physician services.

(5) The agency covers physical examinations for medical assistance clients only when the physical examination is one or more of the following:

(a) A screening exam covered by the EPSDT program (see WAC 182-534-0100);

(b) An annual exam for clients of the division of developmental disabilities; or

(c) A screening pap smear, mammogram, or prostate exam.

(6) By providing covered services to a client eligible for a medical assistance program, a provider who ~~((has signed an agreement with the agency))~~ meets the requirements in WAC 182-502-0005(3) accepts the agency's rules and fees ~~((as outlined in the agreement,))~~ which includes federal and state law and regulations, billing instructions, and agency issuances.

(7) Outpatient drugs are not subject to the rules in this chapter. For rules about outpatient drugs see chapter 182-530 WAC.

WSR 12-21-111

PROPOSED RULES

HEALTH CARE AUTHORITY

(Medicaid Program)

[Filed October 23, 2012, 1:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-07-075.

Title of Rule and Other Identifying Information:
Amends WAC 182-507-0110 Alien medical programs, 182-507-0115 Alien emergency medical program (AEM), and

182-507-0120 Alien medical for dialysis and cancer treatment.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at <http://maa.dshs.wa.gov/pdf/CherryStreetDirectionsNMap.pdf> or directions can be obtained by calling (360) 725-1000), on November 27, 2012, at 10:00 a.m.

Date of Intended Adoption: Not sooner than November 28, 2012.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on November 27, 2012.

Assistance for Persons with Disabilities: Contact Kelly Richters by November 19, 2012, TTY (800) 848-5429 or (360) 725-1307 or e-mail kelly.richters@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The HCA is changing the titles of these rules to clarify the rules' content, removing reference to "state-only" funding from WAC 182-507-0120, changing references to the "department" to the "agency," and correcting cross-references.

Statutory Authority for Adoption: RCW 41.05.021.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Jason R. P. Crabbe, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1346; Implementation and Enforcement: Dody McAlpine, P.O. Box 45504, Olympia, WA 98504-5534, (360) 725-9964.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The HCA has analyzed the proposed new and amended rules and determines they will not have an adverse economic impact on small businesses. The preparation of a comprehensive small business economic impact statement therefore is not required.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules [review] committee or applied voluntarily.

October 23, 2012
Kevin M. Sullivan
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-13-056, filed 6/15/12, effective 7/1/12)

WAC 182-507-0110 Alien medical programs. (1) To qualify for an alien medical program (AMP) a person must:

(a) Be ineligible for medicaid or other ~~((DSHS))~~ medicaid agency medical program due to the citizenship/alien status requirements described in WAC 388-424-0010;

(b) Meet the requirements described in WAC ~~((388-438-0115, 388-438-0120, or 388-438-0125))~~ 182-507-0115, 182-507-0120, or 182-507-0125; and

(c) Meet categorical eligibility criteria for one of the following programs, except for the Social Security number or citizenship/alien status requirements:

(i) WAC 388-475-0050, for an SSI-related person;

(ii) WAC ~~((388-505-0220))~~ 182-505-0240, for family medical programs;

(iii) WAC ~~((388-505-0210))~~ 182-505-0210, for a child under the age of nineteen;

(iv) WAC ~~((388-462-0015))~~ 182-505-0115, for a pregnant woman;

(v) WAC 388-462-0020, for the breast and cervical cancer treatment program for women; or

(vi) WAC ~~((388-523-0100))~~ 182-523-0100, for medical extensions.

(2) AMP medically needy (MN) coverage is available for children, adults age sixty-five or over, or persons who meet SSI disability criteria. See WAC 388-519-0100 for MN eligibility and 388-519-0110 for spending down excess income under the MN program.

(3) The ~~((department))~~ agency or its designee does not consider a person's date of arrival in the United States when determining eligibility for AMP.

(4) The ~~((department))~~ agency or its designee does not consider a sponsor's income and resources when determining eligibility for AMP, unless the sponsor makes the income or resources available.

(5) A person is not eligible for AMP if that person entered the state specifically to obtain medical care.

(6) A person who the ~~((department))~~ agency or its designee determines is eligible for AMP may be eligible for retroactive coverage as described in WAC 388-416-0015.

(7) Once the ~~((department))~~ agency or its designee determines financial and categorical eligibility for AMP, the ~~((department))~~ agency or its designee then determines whether a person meets the requirements described in WAC ~~((388-438-0115, 388-438-0120, or 388-438-0125))~~ 182-507-0115, 182-507-0120, or 182-507-0125.

AMENDATORY SECTION (Amending WSR 12-13-056, filed 6/15/12, effective 7/1/12)

WAC 182-507-0115 Alien emergency medical program (AEM). (1) A person nineteen years of age or older who is not pregnant and meets the eligibility criteria under WAC ~~((388-438-0110))~~ 182-507-0110 is eligible for the alien emergency medical program's scope of covered services described in this section if the person meets (a) and (b) ~~((below,))~~ or (c) ~~((below))~~ of this subsection:

(a) The ~~((department's health and recovery services administration))~~ medicaid agency determines that the primary condition requiring treatment meets the definition of an emergency medical condition as defined in WAC ~~((388-500-0005))~~ 182-500-0030, and the condition is confirmed through review of clinical records; and

(b) The person's qualifying emergency medical condition is treated in one of the following hospital settings:

(i) Inpatient;

(ii) Outpatient surgery;

(iii) Emergency room services, which must include an evaluation and management (E&M) visit by a physician; or

(c) Involuntary Treatment Act (ITA) and voluntary inpatient admissions to a hospital psychiatric setting that are authorized by the ~~((department's))~~ agency's inpatient mental health designee (see subsection (5) of this section).

(2) If a person meets the criteria in subsection (1) of this section, the ~~((department))~~ agency will cover and pay for all related medically necessary health care services and professional services provided:

(a) By ~~((a))~~ physicians in ~~((his))~~ their office or in a clinic setting immediately prior to the transfer to the hospital, resulting in a direct admission to the hospital; and

(b) During the specific emergency room visit, outpatient surgery or inpatient admission. These services include, but are not limited to:

- (i) Medications;
- (ii) Laboratory, X ray, and other diagnostics and the professional interpretations;
- (iii) Medical equipment and supplies;
- (iv) Anesthesia, surgical, and recovery services;
- (v) Physician consultation, treatment, surgery, or evaluation services;
- (vi) Therapy services;
- (vii) Emergency medical transportation; and
- (viii) Nonemergency ambulance transportation to transfer the person from a hospital to a long term acute care (LTAC) or an inpatient physical medicine and rehabilitation (PM&R) unit, if that admission is prior authorized by the ~~((department))~~ agency or its designee as described in subsection (3) of this section.

(3) The ~~((department))~~ agency will cover admissions to an LTAC facility or an inpatient PM&R unit if:

(a) The original admission to the hospital meets the criteria as described in subsection (1) of this section;

(b) The person is transferred directly to this facility from the hospital; and

(c) The admission is prior authorized according to LTAC and PM&R program rules (see WAC ~~((388-550-2590))~~ 182-550-2590 for LTAC and WAC ~~((388-550-2561))~~ 182-550-2561 for PM&R).

(4) The ~~((department))~~ agency does not cover any services, regardless of setting, once the person is discharged from the hospital after being treated for a qualifying emergency medical condition authorized by the ~~((department))~~ agency or its designee under this program. Exception: Pharmacy services, drugs, devices, and drug-related supplies listed in WAC ~~((388-530-2000))~~ 182-530-2000, prescribed on the same day and associated with the qualifying visit or service (as described in subsection (1) of this section) will be covered for a one-time fill and retrospectively reimbursed according to pharmacy program rules.

(5) Medical necessity of inpatient psychiatric care in the hospital setting must be determined, and any admission must be authorized by the ~~((department's))~~ agency's inpatient mental health designee according to the requirements in WAC ~~((388-550-2600))~~ 182-550-2600.

(6) There is no precertification or prior authorization for eligibility under this program. Eligibility for the AEM program does not have to be established before an individual begins receiving emergency treatment.

(7) Under this program, certification is only valid for the period of time the person is receiving services under the criteria described in subsection (1) of this section. The exception for pharmacy services is also applicable as described in subsection (4) of this section.

(a) For inpatient care, the certification is only for the period of time the person is in the hospital, LTAC, or PM&R facility - The admission date through the discharge date. Upon discharge the person is no longer eligible for coverage.

(b) For an outpatient surgery or emergency room service the certification is only for the date of service. If the person is in the hospital overnight, the certification will be the admission date through the discharge date. Upon release from the hospital, the person is no longer eligible for coverage.

(8) Under this program, any visit or service not meeting the criteria described in subsection (1) of this section is considered not within the scope of service categories as described in WAC ~~((388-501-0060))~~ 182-501-0060. This includes, but is not limited to:

(a) Hospital services, care, surgeries, or inpatient admissions to treat any condition which is not considered by the ~~((department))~~ agency to be a qualifying emergency medical condition, including but not limited to:

- (i) Laboratory X ray, or other diagnostic procedures;
- (ii) Physical, occupational, speech therapy, or audiology services;
- (iii) Hospital clinic services; or
- (iv) Emergency room visits, surgery, or hospital admissions.

(b) Any services provided during a hospital admission or visit (meeting the criteria described in subsection (1) of this section), which are not related to the treatment of the qualifying emergency medical condition;

(c) Organ transplants, including preevaluations, post operative care, and anti-rejection medication;

(d) Services provided outside the hospital settings described in subsection (1) of this section~~((s))~~ including, but not limited to:

- (i) Office or clinic-based services rendered by a physician, an ARNP, or any other licensed practitioner;
- (ii) Prenatal care, except labor and delivery;
- (iii) Laboratory, radiology, and any other diagnostic testing;
- (iv) School-based services;
- (v) Personal care services;
- (vi) Physical, respiratory, occupational, and speech therapy services;
- (vii) Waiver services;
- (viii) Nursing facility services;
- (ix) Home health services;
- (x) Hospice services;
- (xi) Vision services;
- (xii) Hearing services;
- (xiii) Dental services;
- (xiv) Durable and nondurable medical supplies;
- (xv) Nonemergency medical transportation;
- (xvi) Interpreter services; and
- (xvii) Pharmacy services, except as described in subsection (4) of this section.

(9) The services listed in subsection (8) of this section are not within the scope of service categories for this program and therefore the exception to rule process is not available.

(10) Providers must not bill the ~~((department))~~ agency for visits or services that do not meet the qualifying criteria described in this section. The ~~((department))~~ agency will identify and recover payment for claims paid in error.

AMENDATORY SECTION (Amending WSR 12-13-056, filed 6/15/12, effective 7/1/12)

WAC 182-507-0120 Alien medical for dialysis and cancer treatment ~~((state only))~~. In addition to the provisions for emergency care described in WAC 182-507-0115, the medicaid agency also considers the conditions in this section as an emergency, as defined in WAC 182-500-0030.

(1) A person nineteen years of age or older who is not pregnant and meets the eligibility criteria under WAC ~~((388-438-0110))~~ 182-507-0110 may be eligible for the scope of service categories under this program if the condition requires:

- (a) Surgery, chemotherapy, and/or radiation therapy to treat cancer;
- (b) Dialysis to treat acute renal failure or end stage renal disease (ESRD); or
- (c) Anti-rejection medication, if the person has had an organ transplant.

(2) When related to treating the qualifying medical condition, covered services include but are not limited to:

- (a) Physician and ARNP services, except when providing a service that is not within the scope of this medical program (as described in subsection (7) of this section);
- (b) Inpatient and outpatient hospital care;
- (c) Dialysis;
- (d) Surgical procedures and care;
- (e) Office or clinic based care;
- (f) Pharmacy services;
- (g) Laboratory, X ray, or other diagnostic studies;
- (h) Oxygen services;
- (i) Respiratory and intravenous (IV) therapy;
- (j) Anesthesia services;
- (k) Hospice services;
- (l) Home health services, limited to two visits;
- (m) Durable and nondurable medical equipment;
- (n) Nonemergency transportation; and
- (o) Interpreter services.

(3) All hospice, home health, durable and nondurable medical equipment, oxygen and respiratory, IV therapy, and dialysis for acute renal disease services require prior authorization. Any prior authorization requirements applicable to the other services listed above must also be met according to specific program rules.

(4) To be qualified and eligible for coverage for cancer treatment under this program, the diagnosis must be already established or confirmed. There is no coverage for cancer screening or diagnostics for a workup to establish the presence of cancer.

(5) Coverage for dialysis under this program starts the date the person begins dialysis treatment, which includes fistula placement and other required access. There is no cover-

age for diagnostics or predialysis intervention, such as surgery for fistula placement anticipating the need for dialysis, or any services related to preparing for dialysis.

(6) Certification for eligibility will range between one to twelve months depending on the qualifying condition, the proposed treatment plan, and whether the client is required to meet a spenddown liability.

(7) The following are not within the scope of service categories for this program:

- (a) Cancer screening or work-ups to detect or diagnose the presence of cancer;
- (b) Fistula placement while the person waits to see if dialysis will be required;
- (c) Services provided by any health care professional to treat a condition not related to, or medically necessary to, treat the qualifying condition;
- (d) Organ transplants, including preevaluations and post operative care;
- (e) Health department services;
- (f) School-based services;
- (g) Personal care services;
- (h) Physical, occupational, and speech therapy services;
- (i) Audiology services;
- (j) Neurodevelopmental services;
- (k) Waiver services;
- (l) Nursing facility services;
- (m) Home health services, more than two visits;
- (n) Vision services;
- (o) Hearing services;
- (p) Dental services, unless prior authorized and directly related to dialysis or cancer treatment;
- (q) Mental health services;
- (r) Podiatry services;
- (s) Substance abuse services; and
- (t) Smoking cessation services.

(8) The services listed in subsection (7) of this section are not within the scope of service categories for this program. The exception to rule process is not available.

(9) Providers must not bill the ~~((department))~~ agency for visits or services that do not meet the qualifying criteria described in this section.

WSR 12-21-112

PROPOSED RULES

HEALTH CARE AUTHORITY

(Medicaid Program)

[Filed October 23, 2012, 1:55 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-15-027.

Title of Rule and Other Identifying Information: Chapter 182-538 WAC, Managed care.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at <http://maa.dshs.wa.gov/pdf/CherryStreet>

DirectionsNMap.pdf or directions can be obtained by calling (360) 725-1000, on November 27, 2012, at 10:00 a.m.

Date of Intended Adoption: Not sooner than November 28, 2012.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on November 27, 2012.

Assistance for Persons with Disabilities: Contact Kelly Richters by November 19, 2012, TTY (800) 848-5429 or (360) 725-1307 or e-mail kelly.richters@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The healthy options and the former general assistance-unemployable managed care plans have both changed since the WAC was last updated due to federal regulation changes and legislative updates; the WAC must be updated to ensure compliance with new laws and federal regulation. During the course of this review, the agency may identify additional changes that are required in order to improve clarity or update policy.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 42 C.F.R. 438.

Statute Being Implemented: RCW 41.05.021.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Wendy L. Boedigheimer, HCA, Legal and Administrative Services, (360) 725-1306; Implementation and Enforcement: Alison Robbins, HCA, Health Services, Quality and Care Management, (360) 725-1634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The HCA analyzed the proposed rule amendments and determined that there are no new costs associated with these changes and they do not impose disproportionate costs on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules [review] committee or applied voluntarily.

October 23, 2012

Kevin M. Sullivan

Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-050 Definitions. The following definitions and abbreviations and those found in chapter 182-500 WAC ((388-500-0005)), Medical definitions, apply to this chapter. References to managed care in this chapter do not apply to mental health managed care administered under chapter 388-865 WAC.

"Action" means one or more of the following:

- (1) The denial or limited authorization of a requested service, including the type or level of service;
- (2) The reduction, suspension, or termination of a previously authorized service;

(3) The denial, in whole or in part, of payment for a service;

(4) The failure to provide services in a timely manner, as defined by the state; or

(5) The failure of a managed care organization (MCO) to act within the time frames provided in 42 C.F.R. 438.408(b).

"Agency" - See WAC 182-500-0010.

"Ancillary health services" means health care services that are auxiliary, accessory, or secondary to a primary health care service.

"Appeal" means a request by an enrollee or provider with written permission of an enrollee for reconsideration of an action.

"Assign" or "assignment" means the ((department)) agency selects an MCO or primary care case management (PCCM) provider to serve a client who has not selected an MCO or PCCM provider.

"Auto enrollment" means the ((department)) agency has automatically enrolled a client into an MCO in the client's area of residence.

"Basic health" or "BH" means the health care program authorized by chapter 70.47 RCW and administered by the ((health care authority (HCA))) agency.

"Basic health plus"((—)) - Refer to WAC ((388-538-065)) 182-538-065.

"Children with special health care needs" means children younger than age nineteen who are identified by the ((department)) agency as having special health care needs. This includes:

(1) Children designated as having special health care needs by the department of health (DOH) and receiving services under the Title V program;

(2) Children eligible for supplemental security income under Title XVI of the Social Security Act (SSA); and

(3) Children who are in foster care or who are served under subsidized adoption.

"Client" means, for the purposes of this chapter, an individual eligible for any medical assistance program, including managed care programs, but who is not enrolled with an MCO or PCCM provider. In this chapter, "client" refers to a person before he or she is enrolled in managed care, while "enrollee" refers to an individual eligible for any medical assistance program who is enrolled in managed care.

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

"Disenrollment"((—)) - See "end enrollment."

"Emergency medical condition" means a condition meeting the definition in 42 C.F.R. 438.114(a).

"Emergency services" means services defined in 42 C.F.R. 438.114(a).

"End enrollment" means ending the enrollment of an enrollee for one of the reasons outlined in WAC ((388-538-430)) 182-538-130.

"Enrollee" means an individual eligible for any medical assistance program enrolled in managed care with an MCO or PCCM provider that has a contract with the state.

"Enrollee's representative" means an individual with a legal right or written authorization from the enrollee to act on behalf of the enrollee in making decisions.

"Enrollees with special health care needs" means enrollees having chronic and disabling conditions and the conditions:

- (1) Have a biologic, psychologic, or cognitive basis;
- (2) Have lasted or are virtually certain to last for at least one year; and
- (3) Produce one or more of the following conditions stemming from a disease:
 - (a) Significant limitation in areas of physical, cognitive, or emotional function;
 - (b) Dependency on medical or assistive devices to minimize limitation of function or activities; or
 - (c) In addition, for children, any of the following:
 - (i) Significant limitation in social growth or developmental function;
 - (ii) Need for psychological, educational, medical, or related services over and above the usual for the child's age; or
 - (iii) Special ongoing treatments, such as medications, special diet, interventions, or accommodations at home or school.

"Exemption" means ((department)) agency approval of a client's preenrollment request to remain in the fee-for-service delivery system for one of the reasons outlined in WAC ((388-538-130)) 182-538-130.

"Grievance" means an expression of dissatisfaction about any matter other than an action, as "action" is defined in this section.

"Grievance system" means the overall system that includes grievances and appeals handled at the MCO level and access to the ((department's)) agency's hearing process.

"Health care service" or **"service"** means a service or item provided for the prevention, cure, or treatment of an illness, injury, disease, or condition.

"Healthy options program" or **"HO program"** means the ((department's)) agency's prepaid managed care health program for medicaid-eligible clients and clients enrolled in the state children's health insurance program (SCHIP).

"Managed care" means a comprehensive health care delivery system that includes preventive, primary, specialty, and ancillary services. These services are provided through either an MCO or PCCM provider.

"Managed care contract" means the agreement between the ((department)) agency and an MCO to provide prepaid contracted services to enrollees.

"Managed care organization" or **"MCO"** means an organization having a certificate of authority or certificate of registration from the office of insurance commissioner that contracts with the ((department)) agency under a comprehensive risk contract to provide prepaid health care services to eligible clients under the ((department's)) agency's managed care programs.

"Mandatory enrollment" means the ((department's)) agency's requirement that a client enroll in managed care.

"Mandatory service area" means a service area in which eligible clients are required to enroll in an MCO.

"Nonparticipating provider" means a health care provider that does not have a written agreement with an MCO but that provides MCO-contracted health care services to managed care enrollees with the MCO's authorization.

"Participating provider" means a health care provider with a written agreement with an MCO to provide health care services to the MCO's managed care enrollees. A participating provider must look solely to the MCO for payment for such services.

"Primary care case management" or **"PCCM"** means the health care management activities of a provider that contracts with the ((department)) agency to provide primary health care services and to arrange and coordinate other preventive, specialty, and ancillary health services.

"Primary care provider" or **"PCP"** means a person licensed or certified under Title 18 RCW including, but not limited to, a physician, an advanced registered nurse practitioner (ARNP), or a physician assistant who supervises, coordinates, and provides health services to a client or an enrollee, initiates referrals for specialist and ancillary care, and maintains the client's or enrollee's continuity of care.

"Prior authorization" or **"PA"** means a process by which enrollees or providers must request and receive ((department)) agency approval for services provided through the ((department's)) agency's fee-for-service system, or MCO approval for services provided through the MCO, for certain medical services, equipment, drugs, and supplies, based on medical necessity, before the services are provided to clients, as a precondition for provider reimbursement.

"Timely" means in relation to the provision of services, an enrollee has the right to receive medically necessary health care as expeditiously as the enrollee's health condition requires. In relation to authorization of services and grievances and appeals, "timely" means according to the ((department's)) agency's managed care program contracts and the time frames stated in this chapter.

"Washington medicaid integration partnership" or **"WMIP"** means the managed care program that is designed to integrate medical, mental health, chemical dependency treatment, and long-term care services into a single coordinated health plan for eligible aged, blind, or disabled clients.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-060 Managed care and choice. (1) This chapter does not apply to the subsidized basic health program found in chapters 182-24 and 182-22 WAC unless allowed by specific program rule.

(2) Except as provided in subsection ((2)) (3) of this section, the ((department)) medicaid agency requires a client to enroll in managed care when that client:

- (a) Is eligible for one of the medical assistance programs for which enrollment is mandatory;
- (b) Resides in an area where enrollment is mandatory; and

(c) Is not exempt from managed care enrollment or the ((department)) agency has not ended the client's managed care enrollment, consistent with WAC ((388-538-130, and any related hearing has been held and decided)) 182-538-130, and any related hearing has been held and decided.

((2)) (3) American Indian(+) and Alaska Native (AI/AN) clients who meet the provisions of 25 U.S.C. 1603

(c)-(d) for federally recognized tribal members and their descendants may choose one of the following:

(a) Enrollment with a managed care organization (MCO) available in their area;

(b) Enrollment with an Indian or tribal primary care case management (PCCM) provider available in their area; or

(c) The ~~((department's))~~ agency's fee-for-service system.

~~((3))~~ (4) To enroll with an MCO or PCCM provider, a client may:

(a) Call the ~~((department's))~~ agency's toll-free enrollment line at 800-562-3022;

(b) Mail a postage-paid completed managed care enrollment form ~~((healthy options sign-up))~~ enrollment form, ~~((DSHS 13-664))~~ HCA 13-862 to the ~~((department's))~~ agency's unit responsible for managed care enrollment; or

(c) Fax the managed care enrollment form ~~((healthy options sign-up))~~ enrollment form, ~~((DSHS 13-664))~~ HCA 13-862 to the ~~((department))~~ agency at ~~((360-725-2144))~~ the number located on the enrollment form.

~~((4))~~ (5) A client must enroll with an MCO provider available in the area where the client resides.

~~((5))~~ (6) All family members of an enrollee placed in the patient review and coordination (PRC) program under WAC ~~((388-501-0135))~~ 182-501-0135 must enroll with the same MCO but may enroll in a different MCO than the family member placed in the PRC program.

~~((6))~~ (7) When a client requests enrollment with an MCO or PCCM provider, the ~~((department))~~ agency enrolls a client effective the earliest possible date given the requirements of the ~~((department's))~~ agency's enrollment system. The ~~((department))~~ agency does not enroll clients retrospectively.

~~((7))~~ (8) The ~~((department))~~ agency assigns a client who does not choose an MCO or PCCM provider as follows:

(a) If the client has a family member or family members enrolled with an MCO, the client is enrolled with that MCO;

(b) If the client does not have a family member or family members enrolled with an MCO that is currently under contract with the ~~((department))~~ agency, and the client was previously enrolled with the MCO or PCCM provider, and the ~~((department))~~ agency can identify the previous enrollment, the client is reenrolled with the same MCO or PCCM provider;

(c) If the client cannot be assigned according to (a) or (b) of this subsection, the ~~((department))~~ agency assigns the client as follows:

(i) If an AI~~(/A)~~ or AN client does not choose an MCO or PCCM provider, the ~~((department))~~ agency assigns the client to a tribal PCCM provider if that client resides in a zip code served by a tribal PCCM provider. If there is no tribal PCCM provider in the client's area, the client continues to be served by the ~~((department's))~~ agency's fee-for-service system. A client assigned under this subsection may request to end enrollment at any time.

(ii) If a ~~((non-AI/AN))~~ client who is not AI or AN does not choose an MCO provider, the ~~((department))~~ agency assigns the client to an MCO available in the area where the client resides. The MCO is responsible for primary care provider (PCP) choice and assignment.

(ii) For clients who are new recipients or who have had a break in eligibility of greater than two months, the ~~((department))~~ agency sends a written notice to each household of one or more clients who are assigned to an MCO or PCCM provider. The assigned client has ten calendar days to contact the ~~((department))~~ agency to change the MCO or PCCM provider assignment before enrollment is effective. The notice includes the name of the MCO or PCCM provider to which each client has been assigned, the effective date of enrollment, the date by which the client must respond in order to change the assignment, and the toll-free telephone number of either:

(A) The MCO (for enrollees assigned to an MCO); or

(B) The ~~((department))~~ agency (for enrollees assigned to a PCCM provider).

(iv) If the client has a break in eligibility of less than two months, the client will be automatically reenrolled with his or her previous MCO or PCCM provider and no notice will be sent.

~~((8))~~ (9) The ~~((department))~~ agency:

(a) Helps facilitate the choice of a PCP by providing information regarding available providers contracted with the MCOs in the client's service area; and

(b) Upon request, will assist clients in identifying an MCO with which their provider participates.

~~((9))~~ (10) An MCO enrollee's selection of a PCP or assignment to a PCP occurs as follows:

(a) An MCO enrollee may choose:

(i) A PCP or clinic that is in the enrollee's MCO and accepting new enrollees; or

(ii) A different PCP or clinic participating with the enrollee's MCO for different family members.

(b) The MCO assigns a PCP or clinic that meets the access standards set forth in the relevant managed care contract if the enrollee does not choose a PCP or clinic.

(c) An MCO enrollee may change PCPs or clinics in an MCO for any reason, with the change becoming effective no later than the beginning of the month following the enrollee's request.

(d) An MCO enrollee may file a grievance with the MCO if the MCO does not approve an enrollee's request to change PCPs or clinics.

(e) MCO enrollees required to participate in the ~~((department's))~~ agency's PRC program may be limited in their right to change PCPs (see WAC 388-501-0135).

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-061 Voluntary enrollment into managed care—Washington medicaid integration partnership (WMIP). (1) The purpose of this section is to describe the managed care requirements for clients eligible for the Washington Medicaid Integration Partnership (WMIP).

(2) Unless otherwise stated in this section, all of the provisions of chapter ~~((388-538))~~ 182-538 WAC apply to clients enrolled in WMIP.

(3) The following sections of chapter ~~((388-538))~~ 182-538 WAC do not apply to WMIP enrollees:

(a) WAC ~~((388-538-060))~~ 182-538-060. However, WAC ~~((388-538-060))~~ 182-538-060(9), describing enrollees' ability to choose their PCP, does apply to WMIP enrollees;

(b) WAC ~~((388-538-063))~~ 182-538-063;

(c) WAC ~~((388-538-065))~~ 182-538-065;

(d) WAC ~~((388-538-068))~~ 182-538-068; and

(e) WAC ~~((388-538-130))~~ 182-538-130. However, WAC ~~((388-538-130))~~ 182-538-130 (3) and (4), describing the process used when the ~~((department))~~ agency receives a request from an MCO to remove an enrollee from enrollment in managed care, do apply to WMIP enrollees. Also, WAC ~~((388-538-130(9)))~~ 182-501-0135, describing the MCO's ability to refer enrollees to the ~~((department's))~~ agency's "Patient Review and Coordination" program, ~~((does apply))~~ applies to WMIP enrollees.

(4) The process for enrollment of WMIP clients is as follows:

(a) Enrollment in WMIP is voluntary, subject to program limitations in (b) and (d) of this subsection.

(b) ~~((For WMIP, the department automatically enrolls clients, with the exception of American Indian/Alaska natives and clients eligible for both medicare and medicaid, when))~~ Clients dually eligible for medicare and medicaid can enroll in WMIP if they:

(i) Are aged, blind, or disabled;

(ii) Are twenty-one years of age or older; and

(iii) Receive categorically needy medical assistance.

(c) ~~((American Indian/Alaska native (AI/AN) clients and))~~ Clients who are eligible for both medicare and medicaid who meet the eligibility criteria in (b) of this subsection may voluntarily enroll or end enrollment in WMIP at any time. Except as described in (d) of this subsection, all enrollments and disenrollments will be prospective.

(d) The ~~((department))~~ agency will not enroll a client in WMIP, or will end an enrollee's enrollment in WMIP when the client has, or becomes eligible for, CHAMPUS/TRI-CARE or any other third-party health care coverage that would:

(i) Require the ~~((department))~~ agency to either exempt the client from enrollment in managed care; or

(ii) End the enrollee's enrollment in managed care.

(e) A client or enrollee in WMIP, or the client's or enrollee's representative, may end enrollment from the MCO at any time without cause. The client may then reenroll at any time with the MCO. The ~~((department))~~ agency ends enrollment for clients prospectively to the first day of the month following the request to end enrollment, except as provided in (f) of this subsection.

(f) A client or enrollee may request that the ~~((department))~~ agency retroactively end enrollment from WMIP. On a case-by-case basis, the ~~((department))~~ agency may retroactively end enrollment from WMIP when, in the ~~((department's))~~ agency's judgment:

(i) The client or enrollee has a documented and verifiable medical condition; and

(ii) Enrollment in managed care could cause an interruption of on-going treatment that could jeopardize the client's or enrollee's life or health or ability to attain, maintain, or regain maximum function.

(5) In addition to the scope of medical care services described in WAC ~~((388-538-095))~~ 182-538-095, WMIP includes mental health, chemical dependency treatment, and long-term care services.

(6) The ~~((department))~~ agency sends each client written information about covered services when the client is eligible to enroll in WMIP, and any time there is a change in covered services. In addition, the ~~((department))~~ agency requires MCOs to provide new enrollees with written information about covered services. This notice informs the client about the right to end enrollment and how to do so.

AMENDATORY SECTION (Amending WSR 12-19-051, filed 9/13/12, effective 10/14/12)

WAC 182-538-063 ~~((MCS clients residing in a designated mandatory managed care plan county.))~~ Managed care for medical care services clients. (1) ~~((In Laws of 2007, chapter 522, section 209 (13) and (14), the legislature authorized the department to))~~ The agency provides coverage of certain medical and mental health benefits through a voluntary managed care program to clients who(=

~~((a) Are eligible for))~~ receive medical services under the medical care services (MCS) ((under)) program in WAC 182-508-0005(=and

~~((b) Reside in a county designated by the agency as a mandatory managed care plan county)).~~

(2) The ~~((only))~~ sections of chapter 182-538 WAC that apply to MCS clients described in this section are incorporated by reference into this section.

(3) ~~((MCS clients who reside in a county designated by the department as a mandatory managed care plan county must enroll in a managed care plan as required by WAC 182-508-0001 to receive agency-paid medical care. An MCS client enrolled in an MCO plan under this section is defined as an MCS enrollee.~~

~~((4))~~ MCS clients are exempt from mandatory enrollment in managed care if they are American Indian or Alaska Native (AI/AN) and meet the provisions of 25 U.S.C. 1603 (c)-(d) for federally recognized tribal members and their descendants.

~~((5) The agency exempts an MCS client from mandatory enrollment in managed care:~~

~~((a) If the MCS client resides in a county that is not designated by the agency as a mandatory MCO plan county; or~~

~~((b) In accordance with WAC 182-538-130(3).~~

~~((6))~~ (4) The agency ends an MCS enrollee's enrollment in managed care ~~((in accordance with WAC 182-538-130(4)))~~ upon request by the enrollee, either in writing or by telephone.

~~((7) On a case-by-case basis, the agency may grant an MCS client's request for exemption from managed care or an MCS enrollee's request to end enrollment when, in the agency's judgment:~~

~~((a) The client or enrollee has a documented and verifiable medical condition; and~~

~~((b) Enrollment in managed care could cause an interruption of treatment that could jeopardize the client's or enrollee's life or health or ability to attain, maintain, or regain maximum function.~~

~~((8))~~ (5) The agency enrolls MCS clients in managed care effective on the earliest possible date, given the requirements of the enrollment system. The agency does not enroll clients in managed care on a retroactive basis. Upon notification of enrollment in managed care, new enrollees may choose to opt out or end enrollment in managed care.

~~((9))~~ (6) Managed care organizations (MCOs) that contract with the agency to provide services to MCS clients must meet the qualifications and requirements in WAC 182-538-067 and 182-538-095 (3)(a), (b), (c), and (d).

~~((10))~~ (7) The agency pays MCOs capitated premiums for MCS enrollees based on legislative allocations for the MCS program.

~~((11))~~ (8) MCS enrollees are eligible for the scope of care as described in WAC 182-501-0060 for medical care services (MCS) programs.

(a) An MCS enrollee is entitled to timely access to medically necessary services as defined in WAC 182-500-0070;

(b) MCOs cover the services included in the managed care contract for MCS enrollees. MCOs may, at their discretion, cover services not required under the MCO's contract for MCS enrollees;

(c) The agency pays providers on a fee-for-service basis for the medically necessary, covered medical care services not ~~(covered under the)~~ in the terms of the agency's MCO's contract for MCS enrollees;

(d) An MCS enrollee may obtain:

(i) Emergency services in accordance with WAC 182-538-100; and

(ii) Mental health services in accordance with this section.

~~((12))~~ (9) The agency does not pay providers on a fee-for-service basis for services covered under the MCO's contract for MCS enrollees, even if the MCO has not paid for the service, regardless of the reason. The MCO is solely responsible for payment of MCO-contracted health care services that are:

(a) Provided by an MCO-contracted provider; or

(b) Authorized by the MCO and provided by nonparticipating providers.

~~((13))~~ (10) The following services are not covered for MCS enrollees unless the MCO chooses to cover these services at no additional cost to the agency:

(a) Services that are not medically necessary;

(b) Services not included in the medical care services scope of care, unless otherwise specified in this section;

(c) Services, other than a screening exam as described in WAC 182-538-100(3), received in a hospital emergency department for nonemergency medical conditions; and

(d) Services received from a nonparticipating provider requiring prior authorization from the MCO that were not authorized by the MCO.

~~((14))~~ (11) A provider may bill an MCS enrollee for noncovered services described in subsection ~~((12))~~ (10) of this section, if the requirements of WAC 182-502-0160 and 182-538-095(5) are met.

~~((15))~~ (12) Mental health services and care coordination are available to MCS enrollees on a limited basis, subject to available funding from the legislature and an appropriate delivery system.

~~((16))~~ (13) A care coordinator (a person employed by the MCO or one of the MCO's subcontractors) provides care coordination to an MCS enrollee in order to improve access to mental health services. Care coordination may include brief, evidenced-based mental health services.

~~((17))~~ (14) To ensure an MCS enrollee receives appropriate mental health services and care coordination, the agency requires the enrollee to complete at least one of the following assessments:

(a) A physical evaluation;

(b) A psychological evaluation;

(c) A mental health assessment completed through the client's local community mental health agency (CMHA) and/or other mental health agencies;

(d) A brief evaluation completed through the appropriate care coordinator located at a participating community health center (CHC);

(e) An evaluation by the client's primary care provider (PCP); or

(f) An evaluation completed by medical staff during an emergency room visit.

~~((18))~~ (15) An MCS enrollee who is screened positive for a mental health condition after completing one or more of the assessments described in subsection ~~((17))~~ (14) of this section may receive one of the following levels of care:

(a) **Level 1.** Care provided by a care coordinator when it is determined that the MCS enrollee does not require Level 2 services. The care coordinator will provide the following, as determined appropriate and available:

(i) Evidenced-based behavioral health services and care coordination to facilitate receipt of other needed services.

(ii) Coordination with the PCP to provide medication management.

(iii) Referrals to other services as needed.

(iv) Coordination with consulting psychiatrist as necessary.

(b) **Level 2.** Care provided by a contracted provider when it is determined that the MCS enrollee requires services beyond Level 1 services. A care coordinator refers the MCS enrollee to the appropriate provider for services:

(i) A regional support network (RSN) contracted provider; or

(ii) A contractor-designated entity.

~~((19))~~ (16) Billing and reporting requirements and payment amounts for mental health services and care coordination provided to MCS enrollees are described in the contract between the MCO and the agency.

~~((20))~~ (17) The total amount the agency pays in any biennium for services provided pursuant to this section cannot exceed the amount appropriated by the legislature for that biennium. The agency has the authority to take whatever actions necessary to ensure the agency stays within the appropriation.

~~((21))~~ (18) Nothing in this section shall be construed as creating a legal entitlement to any MCS client for the receipt of any medical or mental health service by or through the agency.

~~((22))~~ (19) An MCO may refer enrollees to the agency's patient review and coordination (PRC) program according to WAC 182-501-0135.

~~((23))~~ (20) The grievance and appeal process found in WAC 182-538-110 applies to MCS enrollees described in this section.

~~((24))~~ (21) The hearing process found in chapter 182-526 WAC ~~((and WAC 182-538-112))~~ applies to MCS enrollees described in this section.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-065 Medicaid-eligible basic health (BH) enrollees. (1) Certain children and pregnant women who have applied for, or are enrolled in, managed care through basic health (BH) (chapter 70.47 RCW) are eligible for medicaid under pediatric and maternity expansion provisions of the Social Security Act. The ~~((department))~~ agency determines medicaid eligibility for children and pregnant women who enroll through BH.

(2) Eligible children are enrolled in the ~~((basic health))~~ BH plus program and eligible pregnant women are enrolled in the maternity benefits program.

(3) The administrative rules and regulations that apply to managed care enrollees also apply to medicaid-eligible clients enrolled through BH plus or the maternity benefits program as described in this section, except as follows:

(a) ~~((The process for enrolling in managed care described in WAC 388-538-060(3) does not apply since enrollment is through the health care authority, the state agency that administers BH;~~

~~((b))~~ (b) American Indian ~~((/))~~ and Alaska native (AI/AN) clients cannot choose fee-for-service or PCCM as described in WAC ~~((388-538-060))~~ 182-538-060(2). They must enroll in a ~~((BH contracted))~~ HCA-contracted MCO.

~~((c))~~ (c) If a medicaid-eligible client applying for BH plus does not choose an MCO prior to the department's eligibility determination, the client is transferred from BH plus to the department for assignment to managed care.

~~((d))~~ (b) The ~~((department))~~ agency does not consider the basic health plus and the maternity benefits programs to be third party.

(4) This section does not apply to the subsidized basic health program found in chapter 182-24 WAC.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-067 Managed care provided through managed care organizations (MCOs). (1) Managed care organizations (MCOs) may contract with the ~~((department))~~ agency to provide prepaid health care services to eligible clients. The MCOs must meet the qualifications in this section to be eligible to contract with the ~~((department))~~ agency. The MCO must:

(a) Have a certificate of registration from the office of the insurance commissioner (OIC) that allows the MCO to provide the health care services;

(b) Accept the terms and conditions of the ~~((department's))~~ agency's managed care contract;

(c) Be able to meet the network and quality standards established by the ~~((department))~~ agency; and

~~((d))~~ (d) ~~((Accept the prepaid rates published by the department))~~ At the sole option of the agency, be awarded a contract through a competitive process or an application process available to all qualified providers.

(2) The ~~((department))~~ agency reserves the right not to contract with any otherwise qualified MCO.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-068 Managed care provided through primary care case management (PCCM). A provider may contract with the ~~((department))~~ agency as a primary care case management (PCCM) provider to coordinate health care services to eligible clients under the ~~((department's))~~ agency's managed care program. The PCCM provider or the individual providers in a PCCM group or clinic must:

(1) Have a core provider agreement with the ~~((department))~~ agency;

(2) Be a recognized urban Indian health center or tribal clinic;

(3) Accept the terms and conditions of the ~~((department's))~~ agency's PCCM contract;

(4) Be able to meet the quality standards established by the ~~((department))~~ agency; and

(5) Accept PCCM rates published by the ~~((department))~~ agency.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-070 Managed care payment. (1) The ~~((department))~~ agency pays managed care organizations (MCOs) monthly capitated premiums that:

(a) Have been developed in accordance with generally accepted actuarial principles and practices;

(b) Are appropriate for the populations to be covered and the services to be furnished under the MCO contract;

(c) Have been certified by actuaries who meet the qualification standards established by the American Academy of Actuaries and follow the practice standards established by the Actuarial Standards Board;

(d) Are based on historical analysis of financial cost and/or rate information; and

(e) Are paid based on legislative allocations.

(2) The ~~((department))~~ agency pays primary care case management (PCCM) providers a monthly case management fee according to contracted terms and conditions.

(3) The ~~((department))~~ agency does not pay providers under the fee-for-service system for a service that is the MCO's responsibility, even if the MCO has not paid for the service for any reason. The MCO is solely responsible for payment of MCO-contracted health care services.

(4) The ~~((department))~~ agency pays an enhancement rate to federally qualified health care centers (FQHC) and rural health clinics (RHC) for each client enrolled with MCOs through the FQHC or RHC. The enhancement rate from the ~~((department))~~ agency is in addition to the negotiated payments FQHCs and RHCs receive from the MCOs for services provided to MCO enrollees.

(5) The ~~((department))~~ agency pays MCOs a delivery case rate, separate from the capitation payment, when an enrollee delivers a child(ren) and the MCO pays for any part of labor and delivery.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-095 Scope of care for managed care enrollees. (1) Managed care enrollees are eligible for the scope of ~~((medical care))~~ services as described in WAC ~~((388-501-0060))~~ 182-501-0060 for categorically needy clients.

(a) A client is entitled to timely access to medically necessary services as defined in WAC ~~((388-500-0005))~~ 182-500-0070.

(b) The managed care organization (MCO) covers the services included in the MCO contract for MCO enrollees. MCOs may, at their discretion, cover additional services not required under the MCO contract. However, the ~~((department))~~ agency may not require the MCO to cover any additional services outside the scope of services negotiated in the MCO's contract with the ~~((department))~~ agency.

(c) The ~~((department))~~ agency covers medically necessary services described in WAC ~~((388-501-0060 and 388-501-0065))~~ 182-501-0060 and 182-501-0065 that are excluded from coverage in the MCO contract.

(d) The ~~((department))~~ agency covers services through the fee-for-service system for enrollees with a primary care case management (PCCM) provider. Except for emergencies, the PCCM provider must either provide the covered services needed by the enrollee, or refer the enrollee to other providers who are contracted with the ~~((department))~~ agency for covered services. The PCCM provider is responsible for instructing the enrollee regarding how to obtain the services that are referred by the PCCM provider. Services that require PCCM provider referral are described in the PCCM contract. The ~~((department))~~ agency informs an enrollee about the enrollee's program coverage, limitations to covered services, and how to obtain covered services.

(e) MCO enrollees may obtain specific services described in the managed care contract from either an MCO provider or from a provider with a separate agreement with the ~~((department))~~ agency without needing to obtain a referral from the PCP or MCO. These services are communicated to enrollees by the ~~((department))~~ agency and MCOs as described in (f) of this subsection.

(f) The ~~((department))~~ agency sends each client written information about covered services when the client is required to enroll in managed care, and any time there is a change in covered services. This information describes covered services, which services are covered by the ~~((department))~~ agency, and which services are covered by MCOs. In addition, the ~~((department))~~ agency requires MCOs to provide new enrollees with written information about covered services.

(2) For services covered by the ~~((department))~~ agency through PCCM contracts for managed care:

(a) The ~~((department))~~ agency covers medically necessary services included in the categorically needy scope of

care and rendered by providers who have a current core provider agreement with the ~~((department))~~ agency to provide the requested service;

(b) The ~~((department))~~ agency may require the PCCM provider to obtain authorization from the ~~((department))~~ agency for coverage of nonemergency services;

(c) The PCCM provider determines which services are medically necessary;

(d) An enrollee may request a hearing for review of PCCM provider or ~~((the department))~~ agency coverage decisions (see WAC ~~((388-538-110))~~ 182-538-110); and

(e) Services referred by the PCCM provider require an authorization number in order to receive payment from the ~~((department))~~ agency.

(3) For services covered by the ~~((department))~~ agency through contracts with MCOs:

(a) The ~~((department))~~ agency requires the MCO to sub-contract with a sufficient number of providers to deliver the scope of contracted services in a timely manner. Except for emergency services, MCOs provide covered services to enrollees through their participating providers;

(b) The ~~((department))~~ agency requires MCOs to provide new enrollees with written information about how enrollees may obtain covered services;

(c) For nonemergency services, MCOs may require the enrollee to obtain a referral from the primary care provider (PCP), or the provider to obtain authorization from the MCO, according to the requirements of the MCO contract;

(d) MCOs and their contracted providers determine which services are medically necessary given the enrollee's condition, according to the requirements included in the MCO contract;

(e) The ~~((department))~~ agency requires the MCO to coordinate benefits with other insurers in a manner that does not reduce benefits to the enrollee or result in costs to the enrollee;

(f) A managed care enrollee does not need a PCP referral to receive women's health care services, as described in RCW 48.42.100, from any women's health care provider participating with the MCO. Any covered services ordered and/or prescribed by the women's health care provider must meet the MCO's service authorization requirements for the specific service.

(g) For enrollees temporarily outside their MCO services area, the MCO is required to cover enrollees ~~((for up to ninety days))~~ for emergency care and medically necessary covered benefits that cannot wait until the enrollees return to their MCO services area.

(4) Unless the MCO chooses to cover these services, or an appeal, ~~((independent review;))~~ or a hearing decision reverses an MCO or ~~((department))~~ agency denial, the following services are not covered:

(a) For all managed care enrollees:

(i) Services that are not medically necessary ~~((+))~~ as defined in WAC 182-500-0070.

(ii) Services not included in the categorically needy scope of services.

(iii) Services, other than a screening exam as described in WAC ~~((388-538-100))~~ 182-538-100(3), received in a hos-

pital emergency department for nonemergency medical conditions.

(b) For MCO enrollees:

(i) Services received from a participating specialist that require prior authorization from the MCO, but were not authorized by the MCO.

(ii) Services received from a nonparticipating provider that require prior authorization from the MCO that were not authorized by the MCO. All nonemergency services covered under the MCO contract and received from nonparticipating providers require prior authorization from the MCO.

(c) For PCCM enrollees, services that require a referral from the PCCM provider as described in the PCCM contract, but were not referred by the PCCM provider.

(5) A provider may bill an enrollee for noncovered services as described in subsection (4) of this section, if the requirements of WAC ~~((388-502-0160))~~ 182-502-0160 are met.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-100 Managed care emergency services. (1) A managed care enrollee may obtain emergency services, for emergency medical conditions from any qualified medicaid provider. ~~((("Emergency services" and "emergency medical condition" are defined in WAC 388-538-050.))~~

(a) The managed care organization (MCO) covers emergency services for MCO enrollees.

(b) The ~~((department))~~ agency covers emergency services for primary care case management (PCCM) enrollees.

(2) Emergency services for emergency medical conditions do not require prior authorization by the MCO, primary care provider (PCP), PCCM provider, or the ~~((department))~~ agency.

(3) MCOs must cover all emergency services provided to an enrollee by a provider who is qualified to furnish medicaid services, without regard to whether the provider is a participating or nonparticipating provider.

(4) An enrollee who requests emergency services is entitled to receive an exam to determine if the enrollee has an emergency medical condition. What constitutes an emergency medical condition may not be limited on the basis of diagnosis or symptoms.

(5) The MCO must cover emergency services provided to an enrollee when:

(a) The enrollee had an emergency medical condition, including cases in which the absence of immediate medical attention would not have had the outcomes specified in the definition of an emergency medical condition; and

(b) The plan provider or other MCO representative instructs the enrollee to seek emergency services.

(6) In any disagreement between a hospital and the MCO about whether the enrollee is stable enough for discharge or transfer, or whether the medical benefits of an unstabilized transfer outweigh the risks, the judgment of the attending physician(s) actually caring for the enrollee at the treating facility prevails.

(7) Under 42 C.F.R. 438.114, the enrollee's MCO must cover and pay for:

(a) Emergency services provided to enrollees by an emergency room provider, hospital or fiscal agent outside the managed care system; and

(b) Any screening and treatment the enrollee requires subsequent to the provision of the emergency services.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-110 The grievance system for managed care organizations (MCO). (1) This section contains information about the grievance system for managed care organization (MCO) enrollees, which includes grievances and appeals. See WAC ~~((388-538-111))~~ 182-538-111 for information about the grievance system for PCCM enrollees, which includes grievances and appeals.

(2) An MCO enrollee may voice a grievance or appeal an action by an MCO to the MCO either orally or in writing.

(3) MCOs must maintain records of grievances and appeals and must review the information as part of the MCO's quality strategy.

(4) MCOs must provide information describing the MCO's grievance system to all providers and subcontractors.

(5) Each MCO must have a grievance system in place for enrollees. The system must comply with the requirements of this section and the regulations of the state office of the insurance commissioner (OIC). If a conflict exists between the requirements of this chapter and OIC regulations, the requirements of this chapter take precedence. The MCO grievance system must include all of the following:

(a) A grievance process for complaints about any matter other than an action, as defined in WAC ~~((388-538-050))~~ 182-538-050. See subsection (6) of this section for this process;

(b) An appeal process for an action, as defined in WAC ~~((388-538-050))~~ 182-538-050. See subsection (7) of this section for the standard appeal process and subsection (8) of this section for the expedited appeal process;

(c) Access to the ~~((department's))~~ agency's hearing process for actions as defined in WAC ~~((388-538-050))~~ 182-538-050. The ~~((department's))~~ agency's hearing process described in chapter ~~((388-02))~~ 182-526 WAC applies to this chapter. Where conflicts exist, the requirements in this chapter take precedence. ~~((See WAC 388-538-112 for the department's hearing process for MCO enrollees;~~

~~((d) Access to an independent review (IR) as described in RCW 48.43.535, for actions as defined in WAC 388-538-050 (see WAC 388-538-112 for additional information about the IR); and~~

~~((e) Access to the board of appeals (BOA) for actions as defined in WAC 388-538-050 (also see chapter 388-02 WAC and WAC 388-538-112.))~~

(6) The MCO grievance process:

(a) Only an enrollee may file a grievance with an MCO; a provider may not file a grievance on behalf of an enrollee.

(b) To ensure the rights of MCO enrollees are protected, each MCO's grievance process must be approved by the ~~((department))~~ agency.

~~(c) ((MCOs must inform enrollees in writing within fifteen days of enrollment about enrollees' rights and how to use the MCO's grievance process, including how to use the department's hearing process. The MCOs must have department approval for all written information the MCO sends to enrollees.~~

~~(d))~~ The MCO must give enrollees any assistance necessary in taking procedural steps for grievances (e.g., interpreter services and toll-free numbers).

~~((e))~~ (d) The MCO must acknowledge receipt of each grievance either orally or in writing, and each appeal in writing, within five working days.

~~((f))~~ (e) The MCO must ensure that the individuals who make decisions on grievances are individuals who:

(i) Were not involved in any previous level of review or decision making; and

(ii) If deciding any of the following, are health care professionals who have appropriate clinical expertise in treating the enrollee's condition or disease:

(A) A grievance regarding denial of an expedited resolution of an appeal; or

(B) A grievance involving clinical issues.

~~((g))~~ (f) The MCO must complete the disposition of a grievance and notice to the affected parties within ninety days of receiving the grievance.

(7) The MCO appeal process:

(a) An MCO enrollee, or the enrollee's representative with the enrollee's written consent, may appeal an MCO action.

(b) To ensure the rights of MCO enrollees are protected, each MCO's appeal process must be approved by the ~~((department))~~ agency.

~~(c) ((MCOs must inform enrollees in writing within fifteen days of enrollment about enrollees' rights and how to use the MCO's appeal process and the department's hearing process. The MCOs must have department approval for all written information the MCO sends to enrollees.~~

~~(d))~~ For standard service authorization decisions, an enrollee must file an appeal, either orally or in writing, within ninety calendar days of the date on the MCO's notice of action. This also applies to an enrollee's request for an expedited appeal.

~~((e))~~ (d) For appeals for termination, suspension, or reduction of previously authorized services, if the enrollee is requesting continuation of services, the enrollee must file an appeal within ten calendar days of the date of the MCO mailing the notice of action. Otherwise, the time frames in subsection (7)~~((d))~~ (c) of this section apply.

~~((f))~~ (e) The MCO's notice of action must:

(i) Be in writing;

(ii) Be in the enrollee's primary language and be easily understood as required in 42 C.F.R. 438.10 (c) and (d);

(iii) Explain the action the MCO or its contractor has taken or intends to take;

(iv) Explain the reasons for the action;

(v) Explain the enrollee's or the enrollee's representative's right to file an MCO appeal;

(vi) Explain the procedures for exercising the enrollee's rights;

(vii) Explain the circumstances under which expedited resolution is available and how to request it (also see subsection (8) of this section);

(viii) Explain the enrollee's right to have benefits continue pending resolution of an appeal, how to request that benefits be continued, and the circumstances under which the enrollee may be required to pay the costs of these services (also see subsection (9) of this section); and

(ix) Be mailed as expeditiously as the enrollee's health condition requires, and as follows:

(A) For denial of payment, at the time of any action affecting the claim. This applies only when the client can be held liable for the costs associated with the action.

(B) For standard service authorization decisions that deny or limit services, not to exceed fourteen calendar days following receipt of the request for service, with a possible extension of up to fourteen additional calendar days if the enrollee or provider requests extension. If the request for extension is granted, the MCO must:

(I) Give the enrollee written notice of the reason for the decision for the extension and inform the enrollee of the right to file a grievance if the enrollee disagrees with that decision; and

(II) Issue and carry out the determination as expeditiously as the enrollee's health condition requires and no later than the date the extension expires.

(C) For termination, suspension, or reduction of previously authorized services, ten calendar days prior to such termination, suspension, or reduction, except if the criteria stated in 42 C.F.R. 431.213 and 431.214 are met. The notice must be mailed by a method which certifies receipt and assures delivery within three calendar days.

(D) For expedited authorization decisions, in cases where the provider indicates or the MCO determines that following the standard time frame could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, no later than three calendar days after receipt of the request for service.

~~((g))~~ (f) The MCO must give enrollees any assistance necessary in taking procedural steps for an appeal (e.g., interpreter services and toll-free numbers).

~~((h))~~ (g) The MCO must acknowledge receipt of each appeal.

~~((i))~~ (h) The MCO must ensure that the individuals who make decisions on appeals are individuals who:

(i) Were not involved in any previous level of review or decision making; and

(ii) If deciding any of the following, are health care professionals who have appropriate clinical expertise in treating the enrollee's condition or disease:

(A) An appeal of a denial that is based on lack of medical necessity; or

(B) An appeal that involves clinical issues.

~~((j))~~ (i) The process for appeals must:

(i) Provide that oral inquiries seeking to appeal an action are treated as appeals (to establish the earliest possible filing date for the appeal), and must be confirmed in writing, unless the enrollee or provider requests an expedited resolution. Also see subsection (8) for information on expedited resolutions;

(ii) Provide the enrollee a reasonable opportunity to present evidence, and allegations of fact or law, in person as well as in writing. The MCO must inform the enrollee of the limited time available for this in the case of expedited resolution;

(iii) Provide the enrollee and the enrollee's representative opportunity, before and during the appeals process, to examine the enrollee's case file, including medical records, and any other documents and records considered during the appeal process; and

(iv) Include as parties to the appeal, the enrollee and the enrollee's representative, or the legal representative of the deceased enrollee's estate.

~~((4))~~ (j) MCOs must resolve each appeal and provide notice, as expeditiously as the enrollee's health condition requires, within the following time frames:

(i) For standard resolution of appeals and notice to the affected parties, no longer than forty-five calendar days from the day the MCO receives the appeal. This time frame may not be extended.

(ii) For expedited resolution of appeals, including notice to the affected parties, no longer than three calendar days after the MCO receives the appeal.

(iii) For appeals for termination, suspension, or reduction of previously authorized services, no longer than forty-five calendar days from the day the MCO receives the appeal.

~~((4))~~ (k) The notice of the resolution of the appeal must:

(i) Be in writing. For notice of an expedited resolution, the MCO must also make reasonable efforts to provide oral notice (also see subsection (8) of this section).

(ii) Include the results of the resolution process and the date it was completed.

(iii) For appeals not resolved wholly in favor of the enrollee:

(A) Include information on the enrollee's right to request a ~~((department))~~ agency hearing and how to do so (also see WAC ~~((388-538-112))~~ 182-526-0200);

(B) Include information on the enrollee's right to receive services while the hearing is pending and how to make the request (also see subsection (9) of this section); and

(C) Inform the enrollee that the enrollee may be held liable for the cost of services received while the hearing is pending, if the hearing decision upholds the MCO's action (also see subsection (10) of this section).

~~((m))~~ (l) If an MCO enrollee does not agree with the MCO's resolution of the appeal, the enrollee may file a request for ~~((a department))~~ an agency hearing within the following time frames (see WAC ~~((388-538-112))~~ 182-526-0200 for the ~~((department's))~~ agency's hearing process for MCO enrollees):

(i) For hearing requests regarding a standard service, within ninety days of the date of the MCO's notice of the resolution of the appeal.

(ii) For hearing requests regarding termination, suspension, or reduction of a previously authorized service and the enrollee requests continuation of services pending the hearing, within ten calendar days of the date on the MCO's notice of the resolution of the appeal.

~~((n))~~ (m) The MCO enrollee must exhaust all levels of resolution and appeal within the MCO's grievance system prior to requesting a hearing with the ~~((department))~~ agency.

(8) The MCO expedited appeal process:

(a) Each MCO must establish and maintain an expedited appeal review process for appeals when the MCO determines (for a request from the enrollee) or the provider indicates (in making the request on the enrollee's behalf or supporting the enrollee's request), that taking the time for a standard resolution could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function.

(b) When approving an expedited appeal, the MCO will issue a decision as expeditiously as the enrollee's health condition requires, but not later than three business days after receiving the appeal.

(c) The MCO must ensure that punitive action is not taken against a provider who requests an expedited resolution or supports an enrollee's appeal.

(d) If the MCO denies a request for expedited resolution of an appeal, it must:

(i) Transfer the appeal to the time frame for standard resolution; and

(ii) Make reasonable efforts to give the enrollee prompt oral notice of the denial, and follow up within two calendar days with a written notice.

(9) Continuation of previously authorized services:

(a) The MCO must continue the enrollee's services if all of the following apply:

(i) The enrollee or the provider files the appeal on or before the later of the following:

(A) Unless the criteria in 42 C.F.R. 431.213 and 431.214 are met, within ten calendar days of the MCO mailing the notice of action, which for actions involving services previously authorized, must be delivered by a method which certifies receipt and assures delivery within three calendar days; or

(B) The intended effective date of the MCO's proposed action.

(ii) The appeal involves the termination, suspension, or reduction of a previously authorized course of treatment;

(iii) The services were ordered by an authorized provider;

(iv) The original period covered by the original authorization has not expired; and

(v) The enrollee requests an extension of services.

(b) If, at the enrollee's request, the MCO continues or reinstates the enrollee's services while the appeal is pending, the services must be continued until one of the following occurs:

(i) The enrollee withdraws the appeal;

(ii) Ten calendar days pass after the MCO mails the notice of the resolution of the appeal and the enrollee has not requested ~~((a department))~~ an agency hearing (with continuation of services until the ~~((department))~~ agency hearing decision is reached) within the ten days;

(iii) Ten calendar days pass after the state office of administrative hearings (OAH) issues a hearing decision adverse to the enrollee and the enrollee has not requested an appeal to the independent review (IR) organization or petition for review to the agency review judge within the ten days ~~((see WAC 388-538-112))~~ in accordance with the provisions of WAC 182-526-0200;

(iv) Ten calendar days pass after the IR mails a decision adverse to the enrollee and the enrollee has not requested a review with the board of appeals within the ten days ((see WAC 388-538-112));

(v) The ((board of appeals)) agency review judge issues a decision adverse to the enrollee ((see WAC 388-538-112)); or

(vi) The time period or service limits of a previously authorized service has been met.

(c) If the final resolution of the appeal upholds the MCO's action, the MCO may recover the amount paid for the services provided to the enrollee while the appeal was pending, to the extent that they were provided solely because of the requirement for continuation of services.

(10) Effect of reversed resolutions of appeals:

(a) If the MCO or ((OAH)) the final order as defined in chapter 182-526 WAC reverses a decision to deny, limit, or delay services that were not provided while the appeal was pending, the MCO must authorize or provide the disputed services promptly, and as expeditiously as the enrollee's health condition requires.

(b) If the MCO or ((OAH)) the final order as defined in chapter 182-526 WAC reverses a decision to deny authorization of services, and the enrollee received the disputed services while the appeal was pending, the MCO must pay for those services.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-111 Primary care case management (PCCM) grievances and appeals. (1) This section contains information about the grievance system for primary care case management (PCCM) enrollees, which includes grievances and appeals. See WAC ((388-538-110)) 182-538-110 for information about the grievance system for managed care organization (MCO) enrollees.

(2) A PCCM enrollee may voice a grievance or file an appeal, either orally or in writing. PCCM enrollees use the ((department's)) agency's grievance and appeal processes.

(3) The grievance process for PCCM enrollees;

(a) A PCCM enrollee may file a grievance with the ((department)) agency. A provider may not file a grievance on behalf of a PCCM enrollee.

(b) The ((department)) agency provides PCCM enrollees with information equivalent to that described in WAC ((388-538-110)) 182-538-110 (7)(c).

(c) When a PCCM enrollee files a grievance with the ((department)) agency, the enrollee is entitled to:

(i) Any reasonable assistance in taking procedural steps for grievances (e.g., interpreter services and toll-free numbers);

(ii) Acknowledgment of the ((department's)) agency's receipt of the grievance;

(iii) A review of the grievance. The review must be conducted by ((a department)) an agency representative who was not involved in the grievance issue; and

(iv) Disposition of ((a)) the grievance and notice to the affected parties within ninety days of the ((department)) agency receiving the grievance.

(4) The appeal process for PCCM enrollees:

(a) A PCCM enrollee may file an appeal of ((a department)) an agency action with the ((department)) agency. A provider may not file an appeal on behalf of a PCCM enrollee.

(b) The ((department)) agency provides PCCM enrollees with information equivalent to that described in WAC ((388-538-110)) 182-538-110 (8)(c).

(c) The appeal process for PCCM enrollees follows that described in chapter ((388-02)) 182-526 WAC. Where a conflict exists, the requirements in this chapter take precedence.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-120 Enrollee request for a second medical opinion. (1) A managed care enrollee has the right to a timely referral for a second opinion upon request when:

(a) The enrollee needs more information about treatment recommended by the provider or managed care organization (MCO); or

(b) The enrollee believes the MCO is not authorizing medically necessary care.

(2) A managed care enrollee has a right to a second opinion from a participating provider. At the MCO's discretion, a clinically appropriate nonparticipating provider who is agreed upon by the MCO and the enrollee may provide the second opinion.

(3) Primary care case management (PCCM) enrollees have a right to a timely referral for a second opinion by another provider who has a core provider agreement with the ((department)) agency.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-130 Exemptions and ending enrollment in managed care. (1) The ((department)) agency exempts a client from mandatory enrollment in managed care or ends an enrollee's enrollment in managed care as specified in this section.

(2) A client or enrollee, or the client's or enrollee's representative as defined in RCW 7.70.065, may request that the ((department to)) agency exempt or end enrollment in managed care as described in this section.

(a) If a client requests exemption prior to the enrollment effective date, the client is not enrolled until the ((department)) agency approves or denies the request.

(b) If an enrollee requests to end enrollment, the enrollee remains enrolled pending the ((department's)) agency's final decision, unless staying in managed care would adversely affect the enrollee's health status.

(c) The client or enrollee receives timely notice by telephone or in writing when the ((department)) agency approves or denies the client's or enrollee's request. The ((department)) agency follows a telephone denial by written notification. The written notice contains all of the following:

(i) The action the ((department)) agency intends to take;

(ii) The reason(s) for the intended action;

(iii) The specific rule or regulation supporting the action;

(iv) The client's or enrollee's right to request a hearing; and

(v) A translation into the client's or enrollee's primary language when the client or enrollee has limited English proficiency.

(3) A managed care organization (MCO) or primary care case management (PCCM) provider may request that the ~~((department to))~~ agency end enrollment. The request must be in writing and be sufficient to satisfy the ~~((department))~~ agency that the enrollee's behavior is inconsistent with the MCO's or PCCM provider's rules and regulations (e.g., intentional misconduct). The ~~((department))~~ agency does not approve a request to remove an enrollee from managed care when the request is solely due to an adverse change in the enrollee's health or the cost of meeting the enrollee's health care needs. The MCO or PCCM provider's request must include documentation that:

~~(a) ((The provider furnished clinically appropriate evaluation(s) to determine whether there is a treatable problem contributing to the enrollee's behavior;~~

~~(b) Such evaluation either finds no treatable condition to be contributing, or after evaluation and treatment, the enrollee's behavior continues to prevent the provider from safely or prudently providing medical care to the enrollee; and~~

~~(c) The enrollee purposely put the safety and property of the contractor or the contractor's staff, providers, patients, or visitors at risk;~~

~~(d) The enrollee refused to follow procedures or treatment recommended by the enrollee's provider and determined by the contractor's medical director to be essential to the enrollee's health and safety and the enrollee has been told by the provider and/or the contractor's medical director that no other treatment is available; or~~

~~(e) The enrollee engaged in intentional misconduct, including refusing to provide information to the contractor about third-party insurance coverage.~~

(d) The enrollee received written notice of the provider's intent to request the enrollee's removal, unless the ~~((department))~~ agency has waived the requirement for provider notice because the enrollee's conduct presents the threat of imminent harm to others. The provider's notice must include:

(i) The enrollee's right to use the provider's grievance system as described in WAC ~~((388-538-110 and 388-538-111))~~ 182-538-110 and 182-538-111; and

(ii) The enrollee's right to use the ~~((department's))~~ agency's hearing process, after the enrollee has exhausted all grievance and appeals available through the provider's grievance system (see WAC ~~((388-538-110 and 388-538-111))~~ 182-538-110 and 182-538-111 for provider grievance systems, and WAC ~~((388-538-112))~~ 182-526-0200 for the hearing process for enrollees).

(4) When the ~~((department))~~ agency receives a request from an MCO or PCCM provider to remove an enrollee from enrollment in managed care, the ~~((department))~~ agency attempts to contact the enrollee for the enrollee's perspective. If the ~~((department))~~ agency approves the request, the ~~((department))~~ agency sends a notice at least ten calendar days in advance of the effective date that enrollment will end. The notice includes:

(a) The reason the ~~((department))~~ agency approved ending enrollment; and

(b) Information about the enrollee's hearing rights.

(5) The ~~((department))~~ agency will exempt a client from mandatory enrollment or end an enrollee's enrollment in managed care when any of the following apply:

~~(a) ((The client or enrollee is receiving foster care placement services from the division of children and family services (DCFS);~~

~~(b))~~ The client has or the enrollee becomes eligible for medicare, ~~((basic health (BH-))~~ CHAMPUS/TRICARE, or any other third-party health care coverage comparable to the ~~((department's))~~ agency's managed care coverage that would require exemption or involuntarily ending enrollment from:

(i) An MCO, in accordance with the ~~((department's))~~ agency's managed care contract; or

(ii) A primary care case management (PCCM) provider, according to the ~~((department's))~~ agency's PCCM contract.

~~((c))~~ (b) The enrollee is no longer eligible for managed care.

(6) The ~~((department))~~ agency will grant a client's request for exemption or an enrollee's request to end enrollment when:

(a) The client or enrollee is American Indian ~~((/))~~ or Alaska native (AI/AN) as specified in WAC ~~((388-538-060))~~ 182-538-060(2); or

~~(b) ((The client or enrollee has been identified by the department as a child who meets the definition of "children with special health care needs";~~

~~(c))~~ The client or enrollee is homeless or is expected to live in temporary housing for less than one hundred twenty days from the date of the request ~~((-or~~

~~(d) The client or enrollee speaks limited English or is hearing impaired and the client or enrollee can communicate with a provider who communicates in the client's or enrollee's language or in American sign language and is not available through the MCO and the MCO does not have a provider available who can communicate in the client's language and an interpreter is not available)).~~

(7) On a case-by-case basis, the ~~((department))~~ agency may grant a client's request for exemption or an enrollee's request to end enrollment when, in the ~~((department's))~~ agency's judgment, the client or enrollee has a documented and verifiable medical condition, and enrollment in managed care could cause an interruption of treatment that could jeopardize the client's or enrollee's life or health or ability to attain, maintain, or regain maximum function.

(8) Upon request, the ~~((department))~~ agency may exempt the client or end enrollment for the period of time the circumstances or conditions that lead to exemption or ending enrollment are expected to exist. The ~~((department))~~ agency may periodically review those circumstances or conditions to determine if they continue to exist. If the ~~((department))~~ agency approves the request for a limited time, the client or enrollee is notified in writing or by telephone of the time limitation, the process for renewing the exemption or the ending of enrollment.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-538-140 Quality of care. (1) To assure that managed care enrollees receive quality health care services, the ~~((department))~~ agency requires managed care organizations (MCOs) to comply with quality improvement standards detailed in the ~~((department's))~~ agency's managed care contract. MCO's must:

(a) Have a clearly defined quality organizational structure and operation, including a fully operational quality assessment, measurement, and improvement program;

(b) Have effective means to detect over and under utilization of services;

(c) Maintain a system for provider and practitioner credentialing and recertifying;

(d) Ensure that MCO subcontracts and the delegation of MCO responsibilities are in accordance with the ~~((department))~~ agency standards and regulations;

(e) Ensure MCO oversight of delegated entities responsible for any delegated activity to include:

(i) A delegation agreement with each entity describing the responsibilities of the MCO and the entity;

(ii) Evaluation of the entity prior to delegation;

(iii) An annual evaluation of the entity; and

(iv) Evaluation or regular reports and follow-up on issues out of compliance with the delegation agreement or the ~~((department's))~~ agency's managed care contract specifications.

(f) Cooperate with ~~((a department contracted))~~ an agency-contracted, qualified independent external review organization (EQRO) conducting review activities as described in 42 C.F.R. 438.358;

(g) Have an effective mechanism to assess the quality and appropriateness of care furnished to enrollees with special health care needs;

(h) Assess and develop individualized treatment plans for enrollees with special health care needs which ensure integration of clinical and nonclinical disciplines and services in the overall plan of care;

(i) Submit annual reports to the ~~((department))~~ agency on performance measures as specified by the ~~((department))~~ agency;

(j) Maintain a health information system that:

(i) Collects, analyzes, integrates, and reports data as requested by the ~~((department))~~ agency;

(ii) Provides information on utilization, grievances and appeals, enrollees ending enrollment for reasons other than the loss of medicaid eligibility, and other areas as defined by the ~~((department))~~ agency;

(iii) Collects data on enrollees, providers, and services provided to enrollees through an encounter data system, in a standardized format as specified by the ~~((department))~~ agency; and

(iv) Ensures data received from providers is adequate and complete by verifying the accuracy and timeliness of reported data and screening the data for completeness, logic, and consistency.

(k) Conduct performance improvement projects designed to achieve significant improvement, sustained over

time, in clinical care outcomes and services, and that involve the following:

(i) Measuring performance using objective quality indicators;

(ii) Implementing system changes to achieve improvement in service quality;

(iii) Evaluating the effectiveness of system changes;

(iv) Planning and initiating activities for increasing or sustaining performance improvement;

(v) Reporting each project status and the results as requested by the ~~((department))~~ agency; and

(vi) Completing each performance improvement project timely so as to generally allow aggregate information to produce new quality of care information every year.

(l) Ensure enrollee access to health care services;

(m) Ensure continuity and coordination of enrollee care; and

(n) Maintain and monitor availability of health care services for enrollees.

(2) The ~~((department))~~ agency may:

~~((+))~~ (a) Impose intermediate sanctions in accordance with 42 C.F.R. 438.700 and corrective action for substandard rates of clinical performance measures and for deficiencies found in audits and on-site visits;

~~((+))~~ (b) Require corrective action for findings for non-compliance with any contractual state or federal requirements; and

~~((+))~~ (c) Impose sanctions for noncompliance with any contractual, state, or federal requirements not corrected.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-538-112

The department of social and health services' (DSHS) hearing process for enrollee appeals of managed care organization (MCO) actions.

WSR 12-21-113

PROPOSED RULES

HEALTH CARE AUTHORITY

(Medicaid Program)

[Filed October 23, 2012, 3:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-06-036.

Title of Rule and Other Identifying Information: WAC 182-501-0135 Patient review and coordination.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at <http://maa.dshs.wa.gov/pdf/CherryStreetDirectionsNMap.pdf> or directions can be obtained by calling (360) 725-1000), on November 27, 2012, at 10:00 a.m.

Date of Intended Adoption: Not sooner than November 28, 2012.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on November 27, 2012.

Assistance for Persons with Disabilities: Contact Kelly Richters by November 19, 2012, TTY/TDD (800) 848-5429 or (360) 725-1307 or e-mail kelly.richters@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Pursuant to 2ESHB 1087, effective April 1, 2012, HCA is directed to pay for only medically necessary emergency services performed in the emergency room. HCA is also adding criteria for ADATSA clients and changing the rereview and hearing processes.

Statutory Authority for Adoption: RCW 41.05.021 and 2ESHB 1087.

Statute Being Implemented: RCW 41.05.021 and 2ESHB 1087.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Jason R. P. Crabbe, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1346; Implementation and Enforcement: Bernice Lawson, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-1392.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The HCA has analyzed the proposed new and amended rules and determines they will not have an adverse economic impact on small businesses. The preparation of a comprehensive small business economic impact statement therefore is not required.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules [review] committee or applied voluntarily.

October 23, 2012
Kevin M. Sullivan
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-501-0135 Patient review and coordination (PRC). (1) **Patient review and coordination (PRC)** is a health and safety program (~~(, formerly known as the patient review and restriction (PRR) program,)~~) that coordinates care and ensures ((that)) clients ((selected for enrollment)) enrolled in PRC use services appropriately and in accordance with ((department)) agency rules and policies.

(a) PRC applies to medical assistance fee-for-service and managed care clients. ~~((PRC does not apply to clients eligible for the family planning only program.))~~

(b) PRC is authorized under federal medicaid law by 42 U.S.C. 1396n (a)(2) and 42 C.F.R. 431.54.

(2) **Definitions.** The following definitions apply to this section only:

"Appropriate use"—Use of health care services that are ~~((adapted to or appropriate))~~ safe and effective for a client's health care needs.

"Assigned provider"—~~((A department-enrolled))~~ An agency-enrolled health care provider or one participating with ~~((a department))~~ an agency-contracted managed care organization (MCO) who agrees to be assigned as a primary provider and coordinator of services for a fee-for-service or managed care client in the PRC program. Assigned providers can include a primary care provider (PCP), a pharmacy, a prescriber of controlled substances (~~((prescriber))~~), and a hospital for ~~((nonemergency hospital))~~ nonemergency services.

"At-risk"—A term used to describe one or more of the following:

- (a) A client with a medical history of:
 - ~~((Indications of forging or altering prescriptions;~~
 - ~~(*)~~ (i) Seeking and ~~((not))~~ obtaining health care services at a frequency or amount that is not medically necessary; or
 - ~~((*)~~ (ii) Potential life-threatening events or life-threatening conditions that required or may require medical intervention.
- (b) Behaviors or practices that could jeopardize a client's medical treatment or health including, but not limited to:
 - ~~((*)~~ (i) Indications of forging or altering prescriptions;
 - (ii) Referrals from medical personnel, social services personnel, or MCO personnel about inappropriate behaviors or practices that place~~(s)~~ the client at risk;
 - ~~((*)~~ (iii) Noncompliance with medical or drug and alcohol treatment;
 - ~~((*)~~ (iv) Paying cash for medical services that result in a controlled substance prescription or paying cash for controlled substances;
 - ~~((*)~~ (v) Arrests for diverting controlled substance prescriptions;
 - ~~((*)~~ (vi) Positive urine drug screen for illicit street drugs or nonprescribed controlled substances; ~~((not~~
 - ~~(*)~~ (vii) Negative urine drug screen for prescribed controlled substances; or
 - ~~((*)~~ (viii) Unauthorized use of a client's services card ~~((not))~~ for an unauthorized purpose.

"Care management"—Services provided to clients with multiple health, behavioral, and social needs ~~((in order))~~ to improve care coordination, client education, and client self-management skills.

"Client"—A person enrolled in ~~((a department))~~ an agency health care program and receiving service from fee-for-service provider(s) or ~~((a managed care organization (MCO),))~~ an MCO-contracted with the ~~((department))~~ agency.

"Conflicting"—Drugs ~~((and/))~~ or health care services that are incompatible ~~((and/))~~ or unsuitable for use together because of undesirable chemical or physiological effects.

"Contraindicated"—~~((To indicate or show))~~ A medical treatment ~~((not))~~, procedure, or medication that is inadvisable or not recommended or warranted.

~~((Controlled substances prescriber"~~—Any of the following health care professionals who, within their scope of professional practice, are licensed to prescribe and administer controlled substances (see chapter 69.50 RCW, Uniform Controlled Substance Act) for a legitimate medical purpose:

~~• A physician under chapter 18.71 RCW;
 • A physician assistant under chapter 18.71A RCW;
 • An osteopathic physician under chapter 18.57 RCW;
 • An osteopathic physician assistant under chapter 18.57A RCW; and
 • An advanced registered nurse practitioner under chapter 18.79 RCW.)~~

"Duplicative"—Applies to the use of the same or similar drugs and health care services without due medical justification. Example: A client receives health care services from two or more providers for the same or similar condition(s) in an overlapping time frame, or the client receives two or more similarly acting drugs in an overlapping time frame, which could result in a harmful drug interaction or an adverse reaction.

"Emergency department information exchange (EDIE)"—An internet-delivered service that enables health care providers to better identify and treat high users of the emergency department and special needs patients. When patients enter the emergency room, EDIE can proactively alert health care providers through different venues such as fax, phone, e-mail, or integration with a facility's current electronic medical records.

"Emergency medical condition"—See WAC 182-500-0030.

"Emergency services"—See 42 C.F.R. 447.53.

"Just cause"—A legitimate reason to justify the action taken, including but not limited to, protecting the health and safety of the client.

~~(**"Managed care organization" or "MCO"**—An organization having a certificate of authority or certificate of registration from the office of insurance commissioner, that contracts with the department under a comprehensive risk contract to provide prepaid health care services to eligible medical assistance clients under the department's managed care programs.)~~

"Managed care client"—A medical assistance client enrolled in, and receiving health care services from, ~~((a department))~~ an agency-contracted managed care organization (MCO).

"Managed care organization" or "MCO"—See WAC 182-538-050.

"Prescriber of controlled substances"—Any of the following health care professionals who, within their scope of professional practice, are licensed to prescribe and administer controlled substances (see chapter 69.50 RCW, Uniform Controlled Substance Act) for a legitimate medical purpose:

- (a) A physician under chapter 18.71 RCW;
- (b) A physician assistant under chapter 18.71A RCW;
- (c) An osteopathic physician under chapter 18.57 RCW;
- (d) An osteopathic physician assistant under chapter 18.57A RCW; and
- (e) An advanced registered nurse practitioner under chapter 18.79 RCW.

"Primary care provider" or "PCP"—A person licensed or certified under Title 18 RCW including, but not limited to, a physician, an advanced registered nurse practitioner (ARNP), or a physician assistant (PA) who supervises, coordinates, and provides health care services to a client, ini-

tiates referrals for specialty and ancillary care, and maintains the client's continuity of care.

(3) **Clients selected for PRC review.** The ~~((department))~~ agency or MCO selects a client for PRC review when either or both of the following occur:

(a) A ~~((utilization))~~ usage review report indicates the client has not ~~((utilized))~~ used health care services appropriately; or

(b) Medical providers, social service agencies, or other concerned parties have provided direct referrals to the ~~((department))~~ agency or MCO.

(4) **When a fee-for-service client is selected for PRC review,** the prior authorization process as defined in ~~((chapter 388-530))~~ WAC 182-500-0085 may be required:

(a) Prior to or during a PRC review; or

(b) When the client is currently in the PRC program.

(5) **Review for placement in the PRC program.** When the ~~((department))~~ agency or MCO selects a client for PRC review, the ~~((department))~~ agency or MCO staff, with clinical oversight, reviews ~~((a))~~ either the client's medical ~~((and/))~~ history or billing history, or both, to determine if the client has ~~((utilized))~~ used health care services at a frequency or amount that is not medically necessary (42 C.F.R. 431.54(e)).

(6) ~~((Utilization))~~ **Usage guidelines for PRC placement.** ~~((Department))~~ Agency or MCO staff use the following ~~((utilization))~~ usage guidelines to determine PRC placement. A client may be placed in the PRC program when either the client's medical ~~((and/))~~ history or billing ~~((histories document))~~ history, or both, documents any of the following:

(a) Any two or more of the following conditions occurred in a period of ninety consecutive calendar days in the previous twelve months. The client:

(i) Received services from four or more different providers, including physicians, ~~((advanced registered nurse practitioners-))~~ ARNPs(~~(3))~~), and ~~((physician assistants-))~~ PAs(~~(3))~~), not located in the same clinic or practice;

(ii) Had prescriptions filled by four or more different pharmacies;

(iii) Received ten or more prescriptions;

(iv) Had prescriptions written by four or more different prescribers not located in the same clinic or practice;

(v) Received similar services ~~((from two or more providers))~~ in the same day not located in the same clinic or practice; or

(vi) Had ten or more office visits.

(b) Any one of the following occurred within a period of ninety consecutive calendar days in the previous twelve months. The client:

(i) Made two or more emergency department visits;

(ii) ~~((Has a medical history that indicates))~~ Exhibits "at-risk" ~~((utilization))~~ usage patterns;

(iii) Made repeated and documented efforts to seek health care services that are not medically necessary; or

(iv) ~~((Has been))~~ Was counseled at least once by a health care provider, or ~~((a department))~~ an agency or MCO staff member(~~(:))~~) with clinical oversight, about the appropriate use of health care services.

(c) The client received prescriptions for controlled substances from two or more different prescribers not located in

the same clinic or practice in any one month ((in a period of ninety consecutive days in the previous twelve months)) within the ninety-day review period.

(d) The ~~((client's))~~ client has either a medical ((and/)) history or billing history, or both, that demonstrates a pattern of the following at any time in the previous twelve months:

(i) ~~((The client has a history of))~~ Using health care services in a manner that is duplicative, excessive, or contraindicated; ((or))

(ii) ~~((The client has a history of receiving))~~ Seeking conflicting health care services, drugs, or supplies that are not within acceptable medical practice;

(iii) Being on substance abuse programs such as the Alcohol and Drug Abuse Treatment and Support Act (ADATSA).

(7) **PRC review results.** As a result of the PRC review, the ~~((department))~~ agency or MCO ~~((staff))~~ may take any of the following steps:

(a) Determine that no action is needed and close the client's file;

(b) Send the client and, if applicable, the client's authorized representative ~~((;))~~ a one-time only letter of concern with information on specific findings and notice of potential placement in the PRC program; or

(c) Determine that the ~~((utilization))~~ usage guidelines for PRC placement establish that the client has ~~((utilized))~~ used health care services at an amount or frequency that is not medically necessary, in which case the ~~((department))~~ agency or MCO will take one or more of the following actions:

(i) Refer the client for education on appropriate use of health care services;

(ii) Refer the client to other support services or agencies; or

(iii) Place the client into the PRC program for an initial placement period of no less than twenty-four months. For clients younger than eighteen years of age, the MCO must get agency approval prior to placing the client into the PRC program.

(8) **Initial placement in the PRC program.** When a client is initially placed in the PRC program:

(a) The ~~((department))~~ agency or MCO places the client for no less than twenty-four months with one or more of the following types of health care providers:

(i) Primary care provider (PCP) ~~((as defined in subsection (2) of this section));~~

(ii) Pharmacy for all prescriptions;

(iii) Prescriber of controlled substances ~~((prescriber));~~

(iv) Hospital ~~((for ((nonemergent hospital)) nonemergency services((;)))~~ unless referred by the assigned PCP or a specialist. A client may receive covered emergency services from any hospital; or

(v) Another qualified provider type, as determined by ~~((department))~~ agency or MCO program staff on a case-by-case basis.

(b) The managed care client will remain in the same MCO for no less than twelve months unless:

(i) The client moves to a residence outside the MCO's service area and the MCO is not available in the new location; or

(ii) The client's assigned provider no longer participates with the MCO and is available in another MCO, and the client wishes to remain with the current provider; or

(iii) The client is in a voluntary enrollment program or a voluntary enrollment county.

(c) A managed care client placed in the PRC program must remain in the PRC program for ~~((the initial))~~ no less than twenty-four months ~~((period))~~ regardless of whether the client changes MCOs or becomes a fee-for-service client.

~~((d))~~ A care management program may be offered to a client.

(9) **Notifying the client about placement in the PRC program.** When the client is initially placed in the PRC program, the ~~((department))~~ agency or the MCO sends the client and, if applicable, the client's authorized representative, a written notice ~~((containing at least the following components))~~ that:

(a) Informs the client of the reason for the PRC program placement;

(b) Directs the client to respond to the ~~((department))~~ agency or MCO within ten business days of the date of the written notice ~~((about taking the following actions));~~

(c) Directs the client to take the following actions:

(i) Select providers, subject to ~~((department))~~ agency or MCO approval;

(ii) Submit additional health care information, justifying the client's use of health care services; or

(iii) Request assistance, if needed, from the ~~((department))~~ agency or MCO program staff.

~~((e))~~ (d) Informs the client of hearing or appeal rights (see subsection (14) of this section).

~~((f))~~ (e) Informs the client that if a response is not received within ten calendar days of the date of the notice, the client will be assigned a provider(s) by the ((department)) agency or MCO.

(10) **Selection and role of assigned provider.** A client ~~((may be afforded))~~ will have a limited choice of providers.

(a) The following providers are not available:

(i) A provider who is being reviewed by the ~~((department))~~ agency or licensing authority regarding quality of care;

(ii) A provider who has been suspended or disqualified from participating as ~~((a department))~~ an agency-enrolled or MCO-contracted provider; or

(iii) A provider whose business license is suspended or revoked by the licensing authority.

(b) For a client placed in the PRC program, the assigned:

(i) Provider(s) must be located in the client's local geographic area, in the client's selected MCO, and ~~((/or))~~ be reasonably accessible to the client.

(ii) ~~((Primary care provider ()))~~ PCP(;;) supervises and coordinates health care services for the client, including continuity of care and referrals to specialists when necessary. ~~((The PCP must be one of the following:))~~

(A) The PCP:

(I) Provides the plan of care for clients that have documented use of the emergency department for a reason that is not deemed to be an emergency medical condition;

(II) Files the plan of care with each emergency department that the client is using or with the emergency department information exchange;

(III) Makes referrals to substance abuse treatment for clients who are using the emergency department for substance abuse issues; and

(IV) Makes referrals to mental health treatment for clients who are using the emergency department for mental health treatment issues.

(B) The assigned PCP must be one of the following:

(I) A physician ~~((who meets the criteria as defined in chapter 388-502 WAC));~~

~~((B)) (II) An advanced registered nurse practitioner (ARNP) ~~((who meets the criteria as defined in chapter 388-502 WAC));~~ or~~

~~((C)) (III) A licensed physician assistant (PA), practicing with a supervising physician.~~

(iii) Prescriber of controlled substances ~~((prescriber))~~ prescribes all controlled substances for the client~~((:));~~

(iv) Pharmacy fills all prescriptions for the client~~((:));~~ and

(v) Hospital provides all ~~((nonemergent))~~ hospital none-emergency services.

(c) A client placed in the PRC program ~~((cannot change))~~ must remain with the assigned provider~~((s))~~ for twelve months after the assignments are made, unless:

(i) The client moves to a residence outside the provider's geographic area;

(ii) The provider moves out of the client's local geographic area and is no longer reasonably accessible to the client;

(iii) The provider refuses to continue to serve the client;

(iv) The client did not select the provider. The client may request to change an assigned provider once within thirty calendar days of the initial assignment; or

(v) The client's assigned provider no longer participates with the MCO. In this case, the client may select a new provider from the list of available providers in the MCO or follow the assigned provider to the new MCO.

(d) When an assigned prescribing provider no longer contracts with the ~~((department))~~ agency or the MCO:

(i) All prescriptions from the provider are invalid thirty calendar days following the date the contract ends; ~~((and))~~

(ii) All prescriptions from the provider are subject to applicable prescription drugs (outpatient) rules in chapter ~~((388-530))~~ 182-530 WAC or appropriate MCO rules~~((:));~~ and

(iii) The client must choose or be assigned another provider according to the requirements in this section.

(11) PRC placement ~~((periods))~~.

~~((a))~~ (a) The ~~((length of time for a client's))~~ initial PRC placement ~~((includes:))~~ is no less than twenty-four consecutive months.

~~((a))~~ (b) The ~~((initial period of))~~ second PRC placement~~((, which))~~ is ~~((a minimum of twenty four consecutive months))~~.

~~((b))~~ The second period of PRC placement, which is) no less than an additional thirty-six consecutive months.

~~((The third period and))~~ Each subsequent ~~((period of))~~ PRC placement~~((, which))~~ is ~~((an additional))~~ no less than seventy-two consecutive months.

(12) ~~((Department))~~ Agency or MCO review of a PRC placement period. The ~~((department))~~ agency or MCO reviews a client's use of health care services prior to the end of each PRC placement period described in subsection (11) of this section using the ~~((utilization))~~ guidelines in subsection (6) of this section.

(a) The ~~((department))~~ agency or MCO assigns the next PRC placement ~~((period))~~ if the ~~((utilization))~~ usage guidelines for PRC placement in subsection (6) of this section apply to the client.

(b) When the ~~((department))~~ agency or MCO assigns a subsequent PRC placement ~~((period))~~, the ~~((department))~~ agency or MCO sends the client and, if applicable, the client's authorized representative, a written notice informing the client:

(i) Of the reason for the subsequent PRC program placement;

(ii) Of the length of the subsequent PRC placement;

(iii) That the current providers assigned to the client continue to be assigned to the client during the subsequent PRC placement ~~((period));~~

(iv) That all PRC program rules continue to apply; ~~((and))~~

(v) Of hearing or appeal rights (see subsection (14) of this section); and

(vi) Of the rules that support the decision.

(c) The ~~((department))~~ agency may remove a client from PRC placement if the client:

(i) Successfully completes a treatment program that is provided by a chemical dependency service provider certified by the ~~((department))~~ agency under chapter 388-805 WAC;

(ii) Submits documentation of completion of the approved treatment program to the ~~((department))~~ agency; and

(iii) Maintains appropriate use of health care services within the ~~((utilization))~~ usage guidelines described in subsection (6) of this section for six consecutive months after the date the treatment ends.

(d) The ~~((department))~~ agency or MCO determines the appropriate placement ~~((period))~~ for a client who has been placed back into the program.

(e) A client will remain placed in the PRC program regardless of change in eligibility program type or change in address.

(13) Client financial responsibility. A client placed in the PRC program may be billed by a provider and held financially responsible for health care services when the client obtains ~~((nonemergent))~~ nonemergency services and the provider who renders the services is not assigned or referred under the PRC program.

(14) Right to hearing or appeal.

(a) A fee-for-service client who believes the ~~((department))~~ agency has taken an invalid action pursuant to this section may request a hearing.

(b) A managed care client who believes the MCO has taken an invalid action pursuant to this section or chapter ~~((388-538))~~ 182-538 WAC must exhaust the MCO's internal

appeal process set forth in WAC (~~(388-538-110)~~) 182-538-110 prior to requesting a hearing. Managed care clients (~~(ean not)~~) cannot change MCOs until the appeal or hearing is resolved and there is a final ruling.

(c) A client must request the hearing or appeal within ninety calendar days after the client receives the written notice of placement in the PRC program.

(d) The (~~(department)~~) agency conducts a hearing according to chapter (~~(388-02-WAC)~~) 388-526 or 182-526 WAC, whichever is applicable at the time of the request for hearing. Definitions for the terms "hearing," "initial order," and "final order" used in this subsection are found in WAC (~~(388-02-0010)~~) 388-526-0010 or 182-526-0010, whichever is applicable at the time of the request for hearing.

(e) A client who requests a hearing or appeal within ten calendar days from the date of the written notice of an initial PRC placement period under subsection (11)(a) of this section will not be placed in the PRC program until the date an initial order is issued that supports the client's placement in the PRC program or otherwise ordered by an administrative law judge (ALJ).

(f) A client who requests a hearing or appeal more than ten calendar days from the date of the (~~(written)~~) notice under subsection (9) of this section will remain placed in the PRC program unless a final administrative order is entered that orders the client's removal from the program.

(g) A client who requests a hearing or appeal within ninety calendar days from the date of receiving the written notice under subsection (9) of this section and who has already been assigned providers will remain placed in the PRC program unless a final administrative order is entered that orders the client's removal from the program.

(h) An (~~(administrative law judge (ALJ))~~) ALJ may rule that the client be placed in the PRC program prior to the date the record is closed and prior to the date the initial order is issued based on a showing of just cause.

(i) The client who requests a hearing challenging placement into the PRC program has the burden of proving the (~~(department's)~~) agency's or MCO's action was invalid. For standard of proof, see (~~(WAC 388-02-0485)~~) chapter 388-526 or 182-526 WAC, whichever is applicable at the time of the request for hearing.

gear and making a technical change due to previous rule changes relating to northern pike.

Hearing Location(s): Natural Resources Building, First Floor, Room 172, 1111 Washington Street S.E., Olympia, WA 98504, on December 14, 2012, at 8:30 a.m.

Date of Intended Adoption: On or after January 11, 2013.

Submit Written Comments to: Joanna Eide, Enforcement Program, 600 Capitol Way North, Olympia, WA 98501, e-mail Joanna.Eide@dfw.wa.gov, fax (360) 902-2155, by December 7, 2012.

Assistance for Persons with Disabilities: Contact Tami Lininger by November 30, 2012, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule making is to streamline, reorganize, and update WAC 220-20-010, and adds provisions for derelict fishing gear reporting. The project also makes a technical change due to previous rule makings relating to northern pike and splits a large, general rule into more manageable and logical sections. This proposed rule making is part of a larger effort to reorganize and update the agency's administrative code.

Reasons Supporting Proposal: Washington department of fish and wildlife (WDFW) needs the changes to WAC 220-20-010 to increase efficiency, functionality, and clarity of the rules within WDFW's administrative code. The changes promote increases in conservation and availability of resources, as well as provide penalties for failure to report lost fishing gear, which can jeopardize resources, habitat, and access to harvest. The proposal is part of WDFW's WAC overhaul project to streamline, update, and reorganize WDFW's administrative code.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, and 77.12.047.

Statute Being Implemented: RCW 77.12.045 and 77.12.047.

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

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: Joanna Eide, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2403; Implementation: Deputy Chief Mike Cenci, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2938; and Enforcement: Chief Bruce Bjork, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the Reporting, Record-Keeping, and Other Compliance Requirements of the Proposed Rule: This proposal contains requirements for small business commercial fishers to report the loss or abandonment of nontribal commercial net fishing gear within the waters of the state within twenty-four hours. Specific information must be given to the department at the time of reporting, which appears in subsection (3) of the new WAC 220-20-119 General gear rules—Commercial fishery. The lost or abandoned

WSR 12-21-115

PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

[Filed October 23, 2012, 3:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-17-025.

Title of Rule and Other Identifying Information: The subject of this proposed rule making is updating, reorganizing, clarifying, and streamlining WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other fish and shellfish, as well as adding provisions for derelict fishing

commercial net gear requirement is the only new requirement that may affect small businesses in this rule-making proposal. All other provisions are simply technical rewrites and reorganization of existing rules applying to recreational and commercial fishers.

2. Kinds of Professional Services That a Small Business Is Likely to Need in Order to Comply with Such Requirements: There are no professional service requirements for a small business to comply with the proposed reporting requirements.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: The costs of compliance with the new reporting provisions may be in employee/owner working time, but any costs will be negligible as reporting will take only a small amount of time.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No, compliance with the new reporting requirements for lost or abandoned gear will not cause businesses to lose sales or revenue. However, noncompliance results in a rule violation and is punishable as an infraction under RCW 77.15.160, which carries a monetary penalty.

5. Cost of Compliance for the Ten Percent of Businesses That Are the Largest Businesses Required to Comply with the Proposed Rules, Using One or More of the Following as a Basis for Comparing Costs:

1. Cost per employee;
2. Cost per hour of labor; or
3. Cost per one hundred dollars of sales.

The costs of compliance with the new reporting provisions may be in employee/owner time, but any costs will be negligible as reporting will take only a small amount of time. Further, any costs associated with compliance with the proposed reporting requirements are not definite as commercial fishers will only incur costs for reporting if they lose or abandon commercial net gear or fail to report lost or abandoned gear.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So: The costs of compliance with the new reporting provisions are negligible and it is not possible to reduce potential costs any further.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: WDFW discussed the proposed reporting requirements with current commercial license holders. Further, WDFW sent out a letter notifying commercial fishers of the proposed reporting requirements and provided notice of the scheduled public hearing date.

8. A List of Industries That Will Be Required to Comply with the Rule: License holders wishing to participate in the commercial net fishery will be required to comply with the rule should the commercial fishers lose or abandon commercial fishing nets within the waters of the state of Washington.

A copy of the statement may be obtained by contacting Joanna Eide, 600 Capitol Way North, Olympia, WA 98501, phone (360) 902-2403, fax (360) 902-2155, e-mail Joanna.Eide@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These proposals do not involve hydraulics.

October 23, 2012

Joanna M. Eide

Administrative Regulations Analyst

AMENDATORY SECTION (Amending Order 10-33, filed 3/2/10, effective 4/2/10)

WAC 220-20-010 General (~~provisions—Lawful and unlawful acts—Salmon, other fish and shellfish~~) rules—Fish.

(1) It (~~shall be~~) is unlawful to take, fish for, possess or transport (~~for any purpose~~) fish, shellfish, or fish or shellfish parts (~~thereof~~), in or from any (~~of the~~) waters or land (~~over which~~) within the jurisdiction of the state of Washington (~~has jurisdiction~~), or from the waters of the Pacific Ocean, except (~~at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the~~) as provided by department rule.

~~((2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the commission or director, unless otherwise provided.~~

~~(3) A person may fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:~~

Pacific halibut	<i>(Hippoglossus stenolepis)</i>
Pacific herring (except as prescribed in WAC 220-49-020)	<i>(Clupea harengus pallasi)</i>
Anchovy (except as pro- vided for in WAC 220- 33-060, 220-36-03001, 220-44-020, and 220- 40-030)	<i>(Engraulis mordax)</i>
Salmon	
Chinook	<i>(Oncorhynchus tshawytscha)</i>
Coho	<i>(Oncorhynchus kisutch)</i>
Chum	<i>(Oncorhynchus keta)</i>
Pink	<i>(Oncorhynchus gorbusecha)</i>
Soekeye	<i>(Oncorhynchus nerka)</i>
Masu	<i>(Oncorhynchus masu)</i>
Sardine	<i>(Sardinops sagax)</i>
Except as provided for in WAC 220-88C-040))	

(2) It is unlawful for any person who takes or possesses fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington, or the Pacific Ocean, for any purpose, to fail to submit the fish or shellfish

for inspection by authorized department personnel. Violation of this subsection is punishable under RCW 77.15.360. Unlawful interfering in department operations—Penalty.

(3) It is unlawful for the owner or operator of any fishing gear to refuse to submit to inspection of the gear in any manner specified by a fish and wildlife officer. Violation of this subsection is punishable under RCW 77.15.470.

(4) It ((shall be)) is unlawful for any person to fish for fish or shellfish while in possession in the field of fish or shellfish that are in violation of the ((harvest regulations)) rules for the area ((being)) fished. This ((regulation)) subsection does not apply to vessels in transit. Violation of his subsection is punishable under RCW 77.15.380 or RCW 77.15.550, depending on the circumstances of the violation.

(5) ((It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked.

(a) Shellfish pot, bottom fish pot, set line and set net gear must be marked with a buoy to which shall be affixed, in a visible and legible manner, the department approved and registered buoy brand issued to the license, provided that:

(i) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(ii) When two or more shellfish pots are attached to a common ground line, the number of pots so attached must be clearly labeled on the required buoy.

(b) It is unlawful to operate any gillnet, attended or unattended, unless there is affixed, within five feet of each end of the net, a buoy, float, or some other form of marker, visible on the cork line of the net, on which shall be marked in a visible, legible and permanent manner the name and gillnet license number of the fisher.

(c) It shall be unlawful at any time to leave a gillnet unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department. In addition, it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47°20', from August 15 through November 30, except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department.

(8) It shall be unlawful for any person taking or possessing fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington, or the Pacific Ocean, for any purpose, to fail to submit such fish or shellfish for inspection by authorized representatives of the department.

(9) It shall be unlawful for any person licensed by the department to fail to make or return any report required by the department relative to the taking, selling, possessing, transporting, processing, freezing and storing of fish or shellfish, whether taken within the jurisdiction of the state of

Washington or beyond, or on Indian reservations or usual and accustomed Indian fishing grounds.

~~((10)) It ((shall be)) is unlawful to take, fish for, possess, injure, kill, or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere ((in any manner)) with the proper operation of ((such)) a fish protective device((s)) in any way. Violation of this subsection is punishable under RCW 77.15.370 or 77.15.380, depending on the circumstances of the violation.~~

~~((11) It shall be unlawful to club, gaff, snag, snare, dip net, harass, spear, stone, or otherwise molest, injure, kill, destroy, or shoot with a firearm, crossbow, bow and arrow, or compressed air gun, any fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:~~

~~(a) A person may use a dip net or club in the landing of fish taken by personal use angling, unless otherwise provided; and a person may use a gaff in the landing of tuna, halibut and dogfish, and a harpoon in the landing of halibut, in all catch record card areas.~~

~~(b)(i) A person may use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the fish or shellfish that are not going to be retained or are unlawful to possess:~~

~~(ii) It is unlawful under any circumstance to use a device that penetrates the body of a sturgeon whether legal to retain or not.~~

~~(c) A person may use a spear in underwater spear fishing, as provided for in WAC 220-56-160.~~

~~(d) A person may use a bow and arrow or spear to take earp, as provided for in WAC 220-56-280.~~

~~(e) A person may snag herring, smelt, anchovies, pilchard, sand lance, and squid when using forage fish jigger gear or squid jigs.~~

~~(f) A person may shoot halibut when landing them with a dip net, harpoon or gaff.~~

~~((12)) (6) It ((shall be)) is unlawful to take or possess((; for any purpose,)) any fish or shellfish smaller or larger than the ((lawful)) minimum or maximum size limits or in excess of catch or possession limits prescribed by department rule. A person must immediately return to the water any ((such)) fish ((either)) or shellfish snagged, hooked, netted or gilled ((must be immediately returned to the water)) that do not conform to department size requirements or are in excess of catch or possession limits with the least possible injury to the fish or shellfish. Violation of this subsection is a misdemeanor punishable under RCW 77.15.380 or 77.15.550, depending on the circumstances of the violation.~~

~~((13) It shall be unlawful to allow salmon or sturgeon or fish unlawful to retain that are entangled in commercial nets to pass through a power block or onto a power reel or drum.~~

~~(14) Notwithstanding the exceptions listed in subsection (15) of this section, it shall be unlawful to possess, aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be~~

determined if a species, species group or category, length, weight, or sex limit is prescribed for said species.

(15) It is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species, except as follows:

(a) The food fish or shellfish have been legally taken for commercial purposes, are landed, and are properly accounted for on a completed fish receiving ticket.

(b) A person may possess, transport through the waters of the state, or land dressed sablefish as defined in WAC 220-16-330.

(c) A person may possess, transport through the waters of the Pacific Ocean, or land dressed salmon caught during a legal commercial salmon troll fishery, provided that frozen Chinook salmon, dressed with the heads off, shall be 21 1/2 inches minimum; and frozen coho salmon, dressed with the heads off, shall be 12 inches minimum, measured from the midpoint of the clavicle arch to the fork of the tail.

(d) A person may possess, transport through the waters of the Pacific Ocean, or land dressed halibut if allowed by International Pacific Halibut Commission (IPHC) rules and such fish meet any IPHC size requirements. All halibut must be landed with the heads on.

(e) A person may possess, transport through the waters of the Pacific Ocean, or land dressed lingcod as defined by WAC 220-16-330 when taken during a lawful commercial fishery.

(16) It shall be unlawful to possess for any purpose any fish or shellfish in excess of catch or possession limits prescribed by department rule. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish.

(17) It shall be unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department.

(18) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director, or to perform any act not specifically authorized in said document or in the regulations of the commission or director.

(19) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director.

(20) It shall be unlawful to test commercial fishing gear, except as follows:

(a) Bellingham Bay—Inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances, in waters 10 fathoms and deeper.

(b) Boundary Bay—North of a line from Birch Point to Point Roberts, and south of the international boundary, in waters 10 fathoms and deeper during times not under control of the Pacific Salmon Commission.

(c) San Juan Channel—Within a 1-mile radius of Point Caution during times not under control of the Pacific Salmon Commission.

(d) Port Angeles—Inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner—Within a 2-mile radius of the entrance to Everett breakwater, in waters 10 fathoms and deeper.

(f) Central Puget Sound—Between lines from Meadow Point to Point Monroe, and Skiff Point to West Point, in waters 50 fathoms and deeper.

(g) East Pass—Between lines from Point Robinson true east to the mainland, and from Dash Point to Point Piner, in waters 50 fathoms and deeper.

(h) Port Townsend—Westerly of a line from the Coast Guard station in Port Townsend to Wala Point to Kala Point, in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes, exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Cod ends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fish and wildlife enforcement office in Olympia prior to testing.

(21)) (7) It is unlawful for any person or ((corporation either)) entity licensed by the department or bringing fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from fish or shellfish. It is also unlawful for any ((such)) person or ((corporation)) entity to fail to relinquish to the department, upon request, any part of a salmon or other fish containing coded-wire tags(;) including, but not limited to, the snouts of ((those)) salmon ((that are marked by having)) with clipped adipose fins.

((22) It is unlawful for any person to possess live bottom fish taken under a commercial fishery license.

(23) It is unlawful for any person to use chemical irritants to harvest fish, shellfish or unclassified marine invertebrates except as authorized by permit issued by the department.

(24) The lower Columbia River, Grays Harbor and Willapa Bay are closed to commercial sturgeon fishing, except as provided by emergency rule of the director. Sturgeon taken incidentally during an open commercial salmon fishing period may be retained for commercial purposes as described by department rule.))

NEW SECTION

WAC 220-20-116 Aquatic use of chemicals. (1) It is unlawful to use, place, or cause to be placed in state waters or on state beaches or tidelands any substance or chemical used for control of predators or pests that affects fish or shellfish or

other aquatic marine organisms, without first obtaining a special permit to do so from the director.

(2) It is unlawful for any person to use chemical irritants to harvest fish, shellfish, or unclassified marine invertebrates, except as authorized by department permit.

(3) Violation of this section is a misdemeanor, punishable under RCW 77.15.150 or 77.15.196, depending on the circumstances of the violation.

NEW SECTION

WAC 220-20-117 Gaffing and use of other body-penetrating devices—Personal use. (1) It is unlawful to club, gaff, snag, snare, dip net, harass, spear, stone, or otherwise molest, mutilate, injure, kill, destroy, or shoot with a firearm, crossbow, bow and arrow, or compressed air gun, any fish or shellfish or fish or shellfish parts for personal-use purposes, except:

(a) A person may use a dip net or club in the landing of fish taken by personal-use angling, unless otherwise provided; and a person may use a gaff in the landing of tuna, halibut and dogfish, and a harpoon in the landing of halibut, in all catch record card areas.

(b) A person may use a spear in underwater spear fishing, as provided in WAC 220-56-160.

(c) A person may use a bow and arrow or spear to take carp or northern pike, as provided in WAC 220-56-280.

(d) A person may snag herring, smelt, anchovies, pilchard, sand lance, and squid when using forage fish jigger gear or squid jigs.

(e) A person may shoot halibut when landing them with a dip net, harpoon or gaff for personal use only.

(2) It is unlawful to possess fish or shellfish or parts of fish or shellfish taken using the unlawful methods described in subsection (1) of this section.

(3) It is unlawful to use a device that penetrates the body of a sturgeon under any circumstance, whether the sturgeon is legal to retain or not.

(4) Violation of this section is a gross misdemeanor punishable under RCW 77.15.370, Unlawful recreational fishing in the first degree—Penalty.

(5) It is unlawful to attempt acts that violate this section. Violation of this subsection is punishable under RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty.

NEW SECTION

WAC 220-20-118 General rules—Commercial fishery. (1) It is unlawful for any person to possess any food fish or shellfish within the jurisdiction of the state of Washington, except in areas open to commercial fishing or where the possession of salmon or other food fish or shellfish for commercial purposes is permissible under state law or department rule.

(2) It is permissible to fish for, possess, process, and otherwise deal in food fish and fish offal or scrap for any purpose, except it is unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut (*Hippoglossus stenolepis*)

Pacific herring (*Clupea harengus pallasi*)

(except as prescribed in WAC 220-49-020)

Anchovy (except as provided for in WAC 220-33-060, 220-36-03001, 220-44-020, and 220-40-030)

Salmon

Chinook

(*Oncorhynchus tshawytscha*)

Coho

(*Oncorhynchus kisutch*)

Chum

(*Oncorhynchus keta*)

Pink

(*Oncorhynchus gorbuscha*)

Sockeye

(*Oncorhynchus nerka*)

Masu

(*Oncorhynchus masu*)

Sardine

(*Sardinops sagax*)

(3) Violation of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

NEW SECTION

WAC 220-20-119 General gear rules—Commercial fishery. (1) Commercial shellfish pot, bottom fish pot, set line and set net gear must be marked with a buoy that bears the department approved and registered buoy brand issued to the license in a visible and legible manner. It is unlawful for the owner or operator of any commercial food fish or shellfish gear to leave the gear unattended in state or offshore waters unless the gear is marked. Violation of this subsection is punishable under RCW 77.15.520 or 77.15.522, depending on the circumstances of the violation.

(2) Violations of the following are punishable under 77.15.520, Commercial fishing—Unlawful gear or methods—Penalty:

(a) Buoys affixed to unattended commercial food fish or shellfish gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(b) It is unlawful to operate any gill net, attended or unattended, unless there is a buoy, float, or other marker affixed within 5 feet of each end of the net and visible on the cork line. The buoy, float, or other marker must be labeled legibly and permanently with the name and gill-net license number of the owner of the net.

(c) It is unlawful to leave a gill net unattended at any time in the commercial salmon fishery.

(d) It is unlawful to allow salmon, sturgeon, or fish unlawful to retain that are entangled in commercial nets to pass through a power block or onto a power reel or drum.

(3) It is unlawful for any person who loses or abandons non-tribal commercial net fishing gear within the waters of the state to fail to:

(a) Contact the department of fish and wildlife within twenty-four hours of the loss, by phone at 855-542-3935, or on-line at <http://wdfw.wa.gov/fishing/derelect/>; and

(b) Provide the following required information:

- (i) Type of gear;
- (ii) General location of the gear;
- (iii) Latitude (if known) of the gear;
- (iv) Longitude (if known) of the gear;
- (v) Estimated water depth where the gear is located;
- (vi) Date the gear was lost;
- (vii) Time the gear was lost;
- (viii) Name of gear's owner;
- (ix) Telephone number of the gear's owner; and
- (x) E-mail address (if available) of the gear's owner.

(c) Failing to report lost or abandoned nontribal commercial net gear under this subsection is an infraction under RCW 77.15.160.

NEW SECTION

WAC 220-20-120 General rules—Fish—Reporting.

(1) It is unlawful for any person licensed by the department to fail to make or return any report required by the department relative to the taking, selling, possessing, transporting, processing, freezing, and storing of fish or shellfish, whether taken within the jurisdiction of the state of Washington or beyond, or on Indian reservations or usual and accustomed Indian fishing grounds.

(2) Violation of this section is punishable under RCW 77.15.280, 77.15.560, or 77.15.568, depending on the circumstances of the violation.

NEW SECTION

WAC 220-20-121 Possession of food fish and shellfish—Identification—Commercial. (1) It is unlawful to possess any food fish or shellfish in a condition where the species, length, weight, or sex cannot be determined if a species, species group or category, length, weight, or sex limit is prescribed for that species on a vessel engaging in commercial fishing or that has commercially caught fish aboard, except:

(a) It is permissible to possess fish or shellfish legally taken for commercial purposes, landed, and properly accounted for on a completed fish receiving ticket;

(b) It is permissible to possess, transport through the waters of the state, or land dressed sablefish;

(c) It is permissible to possess, transport through the waters of the Pacific Ocean, or land dressed salmon caught during a legal commercial salmon troll fishery, provided that frozen dressed Chinook salmon are 21 1/2 inches or more in length and frozen dressed coho salmon are 12 inches or more in length, measured from the midpoint of the clavicle arch to the fork of the tail;

(d) It is permissible to possess, transport through the waters of the Pacific Ocean, or land dressed halibut if allowed by International Pacific Halibut Commission (IPHC) rules and such fish meet any IPHC size requirements so long as halibut is landed with the heads still attached; and

(e) It is permissible to possess, transport through the waters of the Pacific Ocean, or land dressed lingcod when taken during a lawful commercial fishery.

(2) Violation of this section is a gross misdemeanor under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

(3) "Dressed fish" is defined as provided in WAC 220-16-330.

NEW SECTION

WAC 220-20-122 Possession of a net aboard a vessel—Commercial fishery. (1) It is unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum size or length permissible for a single net in that area, except as otherwise provided by department rule.

(2) Violation of this section is punishable under RCW 77.15.520, Commercial fishing—Unlawful gear or methods—Penalty.

NEW SECTION

WAC 220-20-123 Testing commercial fishing gear.

(1) It is unlawful to test commercial fishing gear, except as follows:

(a) Bellingham Bay - Inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances, in waters 10 fathoms and deeper.

(b) Boundary Bay - North of a line from Birch Point to Point Roberts, and south of the international boundary, in waters 10 fathoms and deeper during times not under control of the Pacific Salmon Commission.

(c) San Juan Channel - Within a 1-mile radius of Point Caution during times not under control of the Pacific Salmon Commission.

(d) Port Angeles - Inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - Within a 2-mile radius of the entrance to Everett breakwater, in waters 10 fathoms and deeper.

(f) Central Puget Sound - Between lines from Meadow Point to Point Monroe, and Skiff Point to West Point, in waters 50 fathoms and deeper.

(g) East Pass - Between lines from Point Robinson true east to the mainland, and from Dash Point to Point Piner, in waters 50 fathoms and deeper.

(h) Port Townsend - Westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point, in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes, exclusive of setting and retrieving time.

(j) All testing must only occur between 8:00 a.m. and 4:00 p.m.

(k) Cod ends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks may be used with jig or troll gear.

(l) All incidentally caught fish and shellfish must be returned to the waters immediately. It is unlawful to retain

fish or shellfish aboard the vessel at any time during a gear test operation.

(2) It is unlawful for any person conducting gear testing operations to fail to notify fish and wildlife enforcement in Olympia at 360-902-2936 prior to testing.

(3) Violation of this section is punishable under RCW 77.15.520, 77.15.550, or 77.15.580, depending on the circumstances of the violation.

NEW SECTION

WAC 220-20-124 Placing commercial gear in closed waters—Unlawful. (1) It is unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, except reef nets, brush weirs, or gear tested in accordance with WAC 220-20-123 and under supervision of the department.

(2) It is unlawful to take, fish for, or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47°20', from August 15 through November 30, except as provided in chapter 220-47 WAC.

(3) Violation of this section is punishable under RCW 77.15.520 or 77.15.550.

NEW SECTION

WAC 220-20-125 Commercial sturgeon fishery—Gillnet—Lower Columbia, Grays Harbor and Willapa Bay. (1) The lower Columbia River, Grays Harbor and Willapa Bay are closed to commercial sturgeon fishing, except as provided by emergency rule of the director. Sturgeon taken incidentally during an open commercial salmon fishing period may be retained for commercial purposes when allowed by department rule.

(2) Violation of this subsection is a gross misdemeanor under RCW 77.15.550, Violation of commercial fishing area or time—Penalty, unless the circumstances constitute violating commercial fishing area or time in the first degree, which is a class C felony.

NEW SECTION

WAC 220-20-126 Gaffing and use of other body-penetrating devices—Commercial. (1) It is unlawful to club, gaff, snag, snare, dip net, harass, spear, stone, or otherwise molest, injure, kill, destroy, or shoot with a firearm, crossbow, bow and arrow, or compressed air gun, any fish or shellfish or parts of fish or shellfish for commercial purposes, except: It is permissible to use a dip net, gaff, or club in the landing of food fish or shellfish. However, it is unlawful to use a fish pew, pitchfork, or any other instrument that penetrates the body of the fish or shellfish if the fish or shellfish will not be retained or are unlawful to possess.

(2) It is unlawful to possess fish or shellfish or parts of fish or shellfish taken using the unlawful methods described in subsection (1) of this section.

(3) It is unlawful under any circumstance to use a device that penetrates the body of a sturgeon whether the sturgeon is legal to retain or not.

(4) Violation of this section is a gross misdemeanor, punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty.

(5) It is unlawful to attempt acts that violate this section. Violation of this subsection is punishable under RCW 77.15.382, Unlawful recreational fishing in the second degree—Penalty.

WSR 12-21-116

PROPOSED RULES

GAMBLING COMMISSION

[Filed October 23, 2012, 4:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-13-062.

Title of Rule and Other Identifying Information: New WAC 230-03-201 Gambling equipment connecting to external tools for standard maintenance.

Hearing Location(s): Comfort Inn Conference Center (tentative), 1620 74th Avenue S.W., Tumwater, WA 98501 (NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time), on January 10 or 11, 2013, at 9:30 a.m. or 1:30 p.m.

Date of Intended Adoption: January 10 or 11, 2013. NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Submit Written Comments to: Susan Newer, P.O. Box 42400, Olympia, WA 98504-2400, e-mail Susan.Newer@wsgc.wa.gov, fax (360) 486-3625, by December 24, 2012.

Assistance for Persons with Disabilities: Contact Gail Grate by January 1, 2013, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Shuffle Master, a licensed manufacturer, is requesting the ability to connect external tools to card shufflers, ace finders and similar card game equipment to conduct standard maintenance. The maintenance would be performed by a licensed representative and only the card game equipment and external tool would be connected to each other. Connecting to the internet or any other equipment or network would not be allowed. The external tools would be tested by our gambling lab and only include laptops, tablets, USB products, or similar products approved by us, containing troubleshooting programs, which will connect to the gambling equipment via their ethernet or USB ports. Standard maintenance would only include:

- Reviewing event logs on gambling equipment, which can consist of card and software errors.
- Installing and uninstalling card libraries and card calibration files.
- Configuring touch screen calibration.
- Gathering diagnostic information.

- O Verifying the hardware board type(s).
- O Reviewing the number of times the equipment has been powered up.
- O Reviewing the total number of operating cycles.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Shuffle Master, a licensed manufacturer, private.

Name of Agency Personnel Responsible for Drafting: Susan Newer, 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 was not prepared because the proposed rule change does not impose additional costs on businesses.

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.

October 8, 2012

Susan Newer

Rules Coordinator

NEW SECTION

WAC 230-03-201 Gambling equipment connecting to external tools for standard maintenance. (1) The following gambling equipment can be connected to external tools for standard maintenance only through a closed network:

- (a) Card shuffling devices; and
- (b) Ace finders or no peek devices; and
- (c) Similar gambling equipment that has been approved by us.

(2) For purposes of this rule:

- (a) A closed network includes only the gambling equipment and the external tool.
- (b) Standard maintenance means:
 - (i) Reviewing event logs on gambling equipment, which can consist of card and software errors.
 - (ii) Installing and uninstalling card libraries and card calibration files.
 - (iii) Configuring touch screen calibration.
 - (iv) Gathering diagnostic information.
 - (v) Verifying the hardware board type(s).
 - (vi) Reviewing the number of times the equipment has been powered up.
 - (vii) Reviewing the total number of operating cycles.

(c) External tools may only include laptops, tablets, USB products, or similar products approved by us, containing troubleshooting programs, which will connect to the gambling equipment via their Ethernet or USB ports.

(3) The following requirements apply when using external tools:

(a) A functional replica of the external tools and their troubleshooting programs must be tested and approved by us before they are first used; and

(b) During standard maintenance, the gambling equipment must not be in play or have access to live gaming data; and

(c) Wireless capabilities must not be used when an external tool is connected to gambling equipment. If an external tool has wireless capabilities, it must be tested by us to ensure wireless capabilities are disabled when connected to the gambling equipment; and

(d) There must be no access to the internet; and

(e) The connection for maintenance must only exist while the manufacturer representative or distributor representative is performing maintenance; and

(f) When standard maintenance is performed, the operator must keep a log in the format we require and access to the gambling equipment must be recorded by surveillance; and

(g) The external tools must only be in possession of a manufacturer representative or distributor representative.

WSR 12-21-117

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed October 23, 2012, 4:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-11-116.

Title of Rule and Other Identifying Information: WAC 246-491-149, amending the rule to gender-neutralize terms for spouses on the marriage and divorce certificates, and clarifying names and adding sex as an item on the marriage certificate.

Hearing Location(s): Department of Health, Point Plaza East, Rooms 152-153, 310 Israel Road S.E., Tumwater, WA 98501, on November 28, 2012, at 8:00 a.m.

Date of Intended Adoption: December 6, 2012.

Submit Written Comments to: Jean Remsbecker, P.O. Box 47814, Olympia, WA 98501-7814, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 753-4135, by November 28, 2012.

Assistance for Persons with Disabilities: Contact Susie Elwanger by November 14, 2012, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 3, Laws of 2012 (ESSB 6239) was signed into law allowing same-sex couples to marry in Washington. The same-sex marriage law has been referred to voters as Referendum 74. The department of health is proposing a rule change so revised marriage and divorce certificate forms can be ready for use if the referendum is approved and law goes into effect on December 6, 2012. If the referendum is not approved, this CR-102 will be withdrawn and the rule changes will not be adopted. The department collects records of all marriages and divorces that occur in Washington and issues copies of certificates. Current marriage and divorce certificates use gender-specific terms. The proposed rule changes the terms to gender-neu-

tral. The proposed rule also adds sex of the people marrying as an item collected on the marriage certificate.

Reasons Supporting Proposal: If Referendum 74 is approved and the law goes into effect, same-sex couples who marry may expect their marriage and divorce certificates to use gender-neutral language. The public may also have an interest in knowing how many same-sex marriages occur.

Statutory Authority for Adoption: RCW 43.70.150 Registration of vital statistics.

Statute Being Implemented: RCW 70.58.055 Certificate generally.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jean Remsbecker, 101 Israel Road S.E., Tumwater, WA 98501, (360) 236-4330; and Enforcement: Christie Spice, 101 Israel Road S.E., Tumwater, WA 98501, (360) 236-4307.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328 (5)(a). RCW 34.05.328 (5)(a) exempts rules that, by definition, are not significant rules.

October 23, 2012

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 09-11-111, filed 5/19/09, effective 6/19/09)

WAC 246-491-149 Information collected on the legal or public section of certificates; modifications to the United States standard certificates and report forms. (1) Effective January 1, 2003, the department shall use the 2003 revisions of the United States standard forms for live birth and fetal death.

(2) Effective January 1, 2004, the department shall use the 2003 standard form for death.

(3) Effective January 1, 1992, the department shall use the 1988 revisions of the United States standard forms for marriage and certificate of divorce, dissolution of marriage or annulment.

(4) These forms are developed by the United States Department of Health and Human Services, National Center for Health Statistics. Copies of these forms may be obtained by contacting the department's center for vital statistics.

(5) With the exception of the confidential section, the department may modify any part of these forms.

(a) Table 3 identifies the modifications to the United States standard form for live birth.

(b) Table 4 identifies the modifications to the United States standard form for fetal death.

(c) Table 5 identifies the modifications to the United States standard form for death.

(d) Table 6 identifies modifications to the United States standard form for marriage.

(e) Table 7 identifies modifications to the United States standard form for certificate of divorce, dissolution of marriage, or annulment.

(6) Table 8 lists items to be collected on the certificate of dissolution of Washington state domestic partnership. This is a Washington state form not addressed in the United States standard forms.

U.S. STANDARD CERTIFICATE OF LIVE BIRTH

**Table 3:
Legal or Public Birth Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
1	Child's name	
2	Child's date of birth	
3	Time of birth	
4	Type of birthplace	Add "En route," Add "Planned birthplace if different"
5	Child's sex	
6	Name of facility	
7	City, town or location of birth	
8	County of birth	
9	Mother's name before first marriage	
10	Mother's date of birth	
11	Mother's birthplace	
12	Mother's Social Security number	
13	Mother's current legal last name	
14	Social Security number requested for child?	
16a	Mother's residence - Number, street, and Apt. No.	
16b	Mother's residence - <u>C</u> ity or town	
16c	Mother's residence - <u>C</u> ounty	
16d	Tribal reservation name (if applicable)	Added
16e	Mother's residence - <u>S</u> tate or foreign country	
16f	Mother's residence - <u>Z</u> ip code + 4	
16g	Mother's residence - Inside city limits?	

U.S. STANDARD CERTIFICATE OF LIVE BIRTH

**Table 3:
Legal or Public Birth Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
17	Telephone number	Added
18	How long at current residence?	Added
19	Mother's mailing address, if different	
25	Father's current legal name	
26	Father's date of birth	
27	Father's birthplace	
28	Father's Social Security number	
66	Certifier name and title	Delete check boxes
67	Date certified	
68	Attendant name and title	Delete check boxes
69	NPI of person delivering the baby	
—	Date filed by registrar	Deleted

U.S. STANDARD REPORT OF FETAL DEATH

**Table 4:
Legal or Public Fetal Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
1	Name of fetus	
2	Sex	
3	Date of delivery	
4	Time of delivery	
5	Type of birthplace	Add "En route," Add "Planned birthplace if different"
6	Name of facility	
7	Facility ID (NPI)	
8	City, town or location of birth	
9	Zip code of delivery	
10	County of birth	
11	Mother's name before first marriage	
12	Mother's date of birth	
13	Mother's current legal last name	

U.S. STANDARD REPORT OF FETAL DEATH

**Table 4:
Legal or Public Fetal Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
14	Mother's birthplace	
15a	Mother's residence - Number, street, and Apt. No.	
15b	Mother's residence - City or town	
15c	Mother's residence - County	
15d	Tribal reservation name (if applicable)	Added
15e	Mother's residence - State or foreign country	
15f	Mother's residence - Zip code + 4	
15g	Mother's residence - Inside city limits?	
16	How long at current residence?	Added
17	Father's current legal name	
18	Father's date of birth	
19	Father's birthplace	
20	Name and title of person completing the report	
21	Date report completed	
22	Attendant name and title	Delete check boxes
23	NPI of person delivering the baby	
24	Method of disposition	
25	Date of disposition	
26	Place of disposition	Added
27	Location of disposition - City/town and state	Added
28	Name and complete address of funeral facility	Added
29	Funeral director signature	Added
30	Initiating cause/condition (cause of death)	
31	Other significant causes or conditions	
32	Estimated time of fetal death	

U.S. STANDARD REPORT OF FETAL DEATH

**Table 4:
Legal or Public Fetal Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
33	Was an autopsy performed?	
34	Was a histological placental examination performed?	
35	Were autopsy or histological placental examination results used in determining the cause of death?	
36	Registrar signature	Added
37	Date received	

U.S. STANDARD CERTIFICATE OF DEATH

**Table 5:
Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
13c	Residence - County	
13d	Tribal reservation name (if applicable)	Added
13e	Residence - State or foreign country	
13f	Residence - Zip code	
13g	Inside city limits?	
14	Estimated length of time at residence	Added
15	Marital status at time of death	
16	Surviving spouse's name	
17	Occupation	
18	Kind of business/industry	
19	Father's name	
20	Mother's name before first marriage	
21	Informant - Name	
22	Informant - Relationship to decedent	
23	Informant - Address	
24	Place of death	
25	Facility name (if not a facility, give number and street)	
26a	City, town, or location of death	
26b	State of death	
27	Zip code of death	
28	Method of disposition	
29	Place of disposition (name of cemetery, crematory, other place)	
30	Disposition - City/town, and state	
31	Name and complete address of funeral facility	
32	Date of disposition	Added
33	Funeral director signature	
34	Causes of death and intervals between onset and death	
35	Other significant conditions contributing to death	

U.S. STANDARD CERTIFICATE OF DEATH

**Table 5:
Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
1	Legal name (include a.k.a.'s if any)	
2	Death date	
3	Sex	
4a	Age - Years	
4b	Age - Under 1 year	
4c	Age - Under 1 day	
5	Social Security number	
6	County of death	
7	Birth date	
8a	Birth place - City, town or county	
8b	Birth place - State or foreign country	
9	Decedent's education	Add "Specify": next to box for "8th Grade or less"
10	Decedent's Hispanic origin	
11	Decedent's race	
12	Was decedent ever in U.S. Armed Forces?	
13a	Residence - Number and street	
13b	Residence - City or town	

U.S. STANDARD CERTIFICATE OF DEATH

**Table 5:
Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
36	Autopsy?	
37	Were autopsy findings available to complete the cause of death?	
38	Manner of death	
39	Pregnancy status	
40	Did tobacco use contribute to death?	
41	Date of injury	
42	Hour of injury	
43	Place of injury	
44	Injury at work?	
45	Injury location - Street, city, county, state, zip	County Added
46	Describe how injury occurred	
47	Transport injury type	
48a	Certifying physician signature	
48b	Medical examiner/coroner signature	
49	Name and address of certifier	
50	Hour of death	
51	Name and title of attending physician if other than certifier	Added
52	Date certified	
53	Title of certifier	
54	License number of certifier	
55	ME/coroner file number	Added
56	Was case referred to medical examiner?	
57	County registrar signature	Added
58	County date received	Added
59	Record amendment	Added
—	License number of funeral director	Deleted
—	Date pronounced dead	Deleted
—	Time pronounced dead	Deleted
—	Signature of person pronouncing death	Deleted

U.S. STANDARD CERTIFICATE OF DEATH

**Table 5:
Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
—	License number of person pronouncing death	Deleted
—	Date person pronouncing death signed	Deleted

U.S. STANDARD LICENSE AND CERTIFICATE OF MARRIAGE

**Table 6:
Certificate of Marriage**

Item Number	Item Name	Difference from U.S. Standard, if any
(—	Certificate name	Changed name of form to "Certificate of Marriage"
—	County of license	
—	Date valid	
—	Not valid after (date)	
1	Date of marriage	
2	County of ceremony	
3	Type of ceremony	Added
4	Date signed (by officiant)	Added
5	Officiant's name	
6	Officiant's signature	
7	Officiant's address	
8	Groom's name	
9	Groom's address (street)	
10	Groom's date of birth	
11	Groom's place of birth (state or country)	
12	Groom's address (city)	
13	Groom's address (inside-city limits)	Added
14	Groom's address (county)	
15	Groom's address (state)	
16	Groom's father—Name	
17	Groom's father—Place of birth	
18	Groom's mother—Maiden name	
19	Groom's mother—Place of birth	
20	Groom's signature	
21	Date signed (by groom)	
22	Bride's name	

U.S. STANDARD LICENSE AND CERTIFICATE OF MARRIAGE

U.S. STANDARD LICENSE AND CERTIFICATE OF MARRIAGE

**Table 6:
Certificate of Marriage**

**Table 6:
Certificate of Marriage**

Item Number	Item Name	Difference from U.S. Standard, if any
23	Bride's maiden last name	
24	Bride's residence— (Street)	
25	Bride's date of birth	
26	Bride's place of birth (state or country)	
27	Bride's residence (city)	
28	Bride's residence (inside city limits)	Added
29	Bride's residence (county)	
30	Bride's residence (state)	
31	Bride's father—Name	
32	Bride's father—Place of birth	
33	Bride's mother—Maiden- name	
34	Bride's mother—Place of birth	
35	Bride's signature	
36	Date signed (by bride)	
37	Witness #1 signature	
38	Witness #2 signature	
39	County auditor signature	
40	Date received (by county auditor)	
Reverse- side	Groom's Social- Security number	
Reverse- side	Bride's Social- Security number	
	Groom's age last birthday	Deleted
	Bride's age last birthday	Deleted
	License to marry section	Deleted
	Expiration date of license	Deleted
	Title of issuing official	Deleted
	Confidential information	Deleted))
	Certificate name	Modified
1	County of license	Added
2	Date valid	
3	Not valid after (date)	
4	County auditor signature	
5	Date received (by county auditor)	
6a	Spouse A - Sex	Added

Item Number	Item Name	Difference from U.S. Standard, if any
6b	Legal name before mar- riage	Modified
6c	Birth name, if different	Added
6d	Last name after marriage	Added
6e	Current residence (street, city/town)	
6f	County of residence	
6g	State of residence	
6h	Date of birth	
6i	Place of birth (state or country)	
6j	Mother/parent birth name	Modified
6k	Father/parent birth name	Modified
6l	Mother/parent place of birth	Modified
6m	Father/parent place of birth	Modified
7a	Spouse B - Sex	Added
7b	Legal name before mar- riage	
7c	Birth name, if different	Modified
7d	Last name after marriage	Added
7e	Current residence (street, city/town)	
7f	County of residence	
7g	State of residence	
7h	Date of birth	
7i	Place of birth (state or country)	
7j	Mother/parent birth name	Modified
7k	Father/parent birth name	Modified
7l	Mother/parent place of birth	Modified
7m	Father/parent place of birth	Modified
8	Date of marriage	
9	County of ceremony	
10	Type of ceremony	Added
11	Date signed (by officiant)	Added
12	Officiant's address	
13	Officiant's daytime phone	Added
14	Officiant's name	
15	Officiant's signature	
16	Witness signature	

U.S. STANDARD LICENSE AND CERTIFICATE OF MARRIAGE

**Table 6:
Certificate of Marriage**

Item Number	Item Name	Difference from U.S. Standard, if any
17	<u>Witness signature</u>	
18	<u>Spouse A signature</u>	<u>Modified</u>
19	<u>Date signed (by spouse A)</u>	<u>Added</u>
20	<u>Spouse B signature</u>	<u>Modified</u>
21	<u>Date signed (by spouse B)</u>	<u>Added</u>
22	<u>Spouse A Social Security number</u>	<u>Added</u>
23	<u>Spouse B Social Security number</u>	<u>Added</u>
	<u>(Groom's) age last birthday</u>	<u>Deleted</u>
	<u>(Bride's) age last birthday</u>	<u>Deleted</u>
	<u>Signature of (license) issuing official</u>	<u>Deleted</u>
	<u>Title of (license) issuing official</u>	<u>Deleted</u>
	<u>Where married – City, town or location</u>	<u>Deleted</u>
	<u>Title (of officiant)</u>	<u>Deleted</u>
	<u>Confidential information</u>	<u>Deleted</u>

U.S. STANDARD CERTIFICATE OF DIVORCE, DISSOLUTION OF MARRIAGE, OR ANNULMENT

**TABLE 7:
Certification of Dissolution, Declaration of Invalidity of Marriage, or Legal Separation**

Item Number	Item Name	Difference from U.S. Standard, if any
	((Certificate name	Changed form name to certificate of dissolution, declaration of invalidity of marriage or legal separation
	<u>Court file number</u>	
1	<u>Type of decree</u>	<u>Added check-boxes</u>
2	<u>Date of filing</u>	
3	<u>County where decree filed</u>	
4	<u>Signature of superior court clerk</u>	
5	<u>Husband's name</u>	
6	<u>Husband's date of birth</u>	

U.S. STANDARD CERTIFICATE OF DIVORCE, DISSOLUTION OF MARRIAGE, OR ANNULMENT

**TABLE 7:
Certification of Dissolution, Declaration of Invalidity of Marriage, or Legal Separation**

Item Number	Item Name	Difference from U.S. Standard, if any
7	<u>Husband's place of birth</u>	
8	<u>Husband's residence—street</u>	
9	<u>Husband's residence—city</u>	
10	<u>Husband's residence—Inside city limits</u>	<u>Added</u>
11	<u>Husband's residence—County</u>	
12	<u>Husband's residence—State</u>	
13	<u>Wife's name</u>	
14	<u>Wife's maiden name</u>	
15	<u>Wife's date of birth</u>	
16	<u>Wife's place of birth</u>	
17	<u>Wife's residence—Street</u>	
18	<u>Wife's residence—City</u>	
19	<u>Wife's residence—Inside city limits</u>	<u>Added</u>
20	<u>Wife's residence—County</u>	
21	<u>Wife's residence—State</u>	
22	<u>Place of marriage—County</u>	
23	<u>Place of marriage—State</u>	
24	<u>Date of marriage</u>	
25	<u>Number of children of this marriage</u>	<u>Name change</u>
26	<u>Petitioner</u>	<u>Delete check-boxes</u>
27	<u>Name of petitioner's attorney/pro se</u>	
28	<u>Petitioner's address</u>	
29	<u>Husband's Social Security number</u>	
30	<u>Wife's Social Security number</u>	
	<u>Date couple last resided in same household</u>	<u>Delete</u>
	<u>Number of children under 18 whose physical custody was awarded to</u>	<u>Delete</u>
	<u>Title of court</u>	<u>Delete</u>
	<u>Title of certifying official</u>	<u>Delete</u>

U.S. STANDARD CERTIFICATE OF DIVORCE, DISSOLUTION OF MARRIAGE, OR ANNULMENT

TABLE 7:

Certification of Dissolution, Declaration of Invalidity of Marriage, or Legal Separation

Item Number	Item Name	Difference from U.S. Standard, if any
	Date signed	Delete
	Confidential information	Delete))
	Certificate name	Modified
1	<u>Court file number</u>	<u>Added</u>
2	<u>Type of decree</u>	
3	<u>Date of decree</u>	
4	<u>County where decree filed</u>	
5	<u>Signature of superior court clerk</u>	
6a	<u>Spouse A - Name</u>	<u>Added</u>
6b	<u>Birth name, if different</u>	<u>Added</u>
6c	<u>Date of birth</u>	
6d	<u>Place of birth (state or country)</u>	
6e	<u>Residence - Street</u>	<u>Added</u>
6f	<u>Residence - City</u>	
6g	<u>Residence - County</u>	
6h	<u>Residence - State</u>	
7a	<u>Spouse B - Name</u>	<u>Added</u>
7b	<u>Birth name, if different</u>	<u>Modify</u>
7c	<u>Date of birth</u>	
7d	<u>Place of birth (state or country)</u>	
7e	<u>Residence - Street</u>	<u>Added</u>
7f	<u>Residence - City</u>	
7g	<u>Residence - County</u>	
7h	<u>Residence - State</u>	
8	<u>Place of marriage -County</u>	
9	<u>Place of marriage - State</u>	
10	<u>Date of marriage</u>	
11	<u>Number of children born alive of this marriage</u>	<u>Added</u>
12	<u>Petitioner</u>	
13	<u>Name of petitioner's attorney or pro se</u>	
14	<u>Petitioner's attorney's address</u>	
15	<u>Spouse A Social Security number</u>	<u>Added</u>
16	<u>Spouse B Social Security number</u>	<u>Added</u>

U.S. STANDARD CERTIFICATE OF DIVORCE, DISSOLUTION OF MARRIAGE, OR ANNULMENT

TABLE 7:

Certification of Dissolution, Declaration of Invalidity of Marriage, or Legal Separation

Item Number	Item Name	Difference from U.S. Standard, if any
	<u>Date (decree) recorded</u>	<u>Deleted</u>
	<u>Number of children under 18 whose physical custody was awarded to (husband, wife, joint, other)</u>	<u>Deleted</u>
	<u>Number of children under 18 in household</u>	<u>Deleted</u>
	<u>Title of court</u>	<u>Deleted</u>
	<u>Title of certifying official</u>	<u>Deleted</u>
	<u>Date (certifying official) signed</u>	<u>Deleted</u>
	<u>Date couple last resided in same household</u>	<u>Deleted</u>
	<u>Confidential items</u>	<u>Deleted</u>

TABLE 8:

Certification of Dissolution of Washington State Domestic Partnership

Item Number	Item Name
	Certificate name
	Court file number
1	Type of decree
2	Date of decree
3	County where decree filed
4	Signature of superior court clerk
5a	First partner's name
5b	First partner's name at birth
6	First partner's date of birth
7	First partner's place of birth
8	First partner's residence - Street
9	First partner's residence - City
10	First partner's residence - Inside city limits
11	First partner's residence - County

**TABLE 8:
Certification of Dissolution of Washington State
Domestic Partnership**

Item Number	Item Name
12	First partner's residence - State
13a	Second partner's name
13b	Second partner's name at birth
14	Second partner's date of birth
15	Second partner's place of birth
16	Second partner's residence - Street
17	Second partner's residence - City
18	Second partner's residence - Inside city limits
19	Second partner's residence - County
20	Second partner's residence - State
21	Date of this partnership
22	Domestic partnership certificate number
23	Petitioner
24	Name of petitioner's attorney/pro se
25	Petitioner's address

**WSR 12-21-121
PROPOSED RULES
DEPARTMENT OF HEALTH
(Chiropractic Quality Assurance Commission)
[Filed October 23, 2012, 4:28 p.m.]**

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-01-129.

Title of Rule and Other Identifying Information: WAC 246-808-180 Expired licenses, requirements to reactivate a license. The chiropractic quality assurance commission (commission) is proposing rules to amend the requirements to reactivate an expired chiropractic license.

Hearing Location(s): Department of Health, Point Plaza East Building, Rooms 152/153, 310 Israel Road S.E., Tumwater, WA 98501, on December 13, 2012, at 10:00 a.m.

Date of Intended Adoption: December 13, 2012.

Submit Written Comments to: Leann Yount, Program Manager, Department of Health, Chiropractic Commission, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by December 3, 2012.

Assistance for Persons with Disabilities: Contact Leann Yount by November 29, 2012, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules describe the requirements to reactivate an expired license. The proposal requires the chiropractor to submit completed continuing education (CE) documentation for approval and they must also pass the jurisprudence exam. Chiropractors that have let their license expire for at least three years, and were not licensed to practice chiropractic under the laws of any other state, territory of the United States, the District of Columbia, Puerto Rico, or province of Canada, must also pass the National Board of Chiropractic Examiners Special Purpose Examination of Chiropractic (SPEC) before their license can be returned to active.

Reasons Supporting Proposal: The proposed rules contribute to patient safety by requiring chiropractors to have current skills and knowledge. In addition, the rules also establish specific requirements to evaluate the chiropractor's clinical competency skills and knowledge by requiring the SPEC exam for those that have not practiced chiropractic for at least three years. Currently there is no competency requirements for a chiropractor to reactivate a license that has been expired for more than three years.

Statutory Authority for Adoption: RCW 18.25.0171 and 18.130.050.

Statute Being Implemented: RCW 18.25.0171.

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

Name of Proponent: Department of health, chiropractic quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Leann Yount, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4856.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Leann Yount, Program Manager, Department of Health, Chiropractic Commission, 111 Israel Road S.E., Tumwater, WA 98501, phone (360) 236-4856, fax (360) 236-2901, e-mail leann.yount@doh.wa.gov.

October 23, 2012

Leann Yount

Program Manager

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

WAC 246-808-180 Expired licenses—Requirements for ((reinstating)) reactivating a chiropractic license. If a chiropractor's license is expired, to return to active status the chiropractor must meet the requirements of WAC 246-12-040 and comply with the following:

(1) If the license has expired for ~~((three years or))~~ less ~~((the practitioner must meet the requirements of chapter 246-12 WAC, Part 2.~~

~~(2) If the license has expired for more than three years and the practitioner can submit proof of continuing education, the practitioner must:~~

~~(a) Successfully complete the jurisprudence examination given by the department;~~

~~(b) Meet the requirements of chapter 246-12 WAC, Part 2.~~

~~(3)) than one year, the chiropractor must submit to the department a written attestation of completing at least twenty-five hours of continuing education in any of the categories under WAC 246-808-150.~~

~~(2) If the chiropractor does not have an active license to practice chiropractic under the laws of any other state, territory of the United States, the District of Columbia, Puerto Rico, or province of Canada and:~~

~~(a) If the license has expired for one year or more but less than three years ~~((and)), the ((practitioner cannot submit proof of continuing education courses during the time the license was expired, the practitioner))~~ chiropractor must:~~

~~((a) Successfully)) (i) Complete at least fifty hours of continuing education in any of the categories listed under WAC 246-808-150 and submit to the department the appropriate documentation of course completion for approval; and~~

~~(ii) Pass the jurisprudence examination as ((provided in RCW 18.25.040 and 18.25.070(2);~~

~~(b) Meet the requirements of chapter 246-12 WAC, Part 2)) specified in WAC 246-808-115.~~

~~(b) If the license has been expired for three years or more, the chiropractor must:~~

~~(i) Complete at least fifty hours of continuing education in any of the categories listed under WAC 246-808-150 and submit to the department the appropriate documentation of course completion for approval;~~

~~(ii) Pass the jurisprudence examination as specified in WAC 246-808-115; and~~

~~(iii) Pass the National Board of Chiropractic Examiners Special Purposes Examination of Chiropractic and submit to the department the appropriate documentation verifying a passing score.~~

~~(3) If the license has expired for one year or more, and the chiropractor has an active license to practice chiropractic under the laws of any other state, territory of the United States, the District of Columbia, Puerto Rico, or province of Canada, the chiropractor must:~~

~~(a) Meet the requirements of WAC 246-808-135 for licensure by endorsement; or~~

~~(b) Meet the requirements of subsection (2)(a) or (b) of this section depending on the length of time the license has been expired.~~

Preproposal statement of inquiry was filed as WSR 12-13-079.

Title of Rule and Other Identifying Information: Amending amateur mixed martial arts, chapter 36-14 WAC.

Amending WAC 36-14-010 Definitions, 36-14-100 Rule exceptions, 36-14-110 License fees, renewals and requirements, 36-14-120 Officials compensation fees to be paid by promoter, 36-14-200 Duration of rounds and 36-14-300 Requirements for ring or enclosed area; new sections WAC 36-14-1053 Amateur weight difference allowances, 36-14-505 Age requirements, 36-14-510 Amateur mixed martial arts fouls, to include amateur mixed martial arts organizations and training facilities, 36-14-515 Amateur mixed martial arts protective equipment, 36-14-520 Amateur mixed martial arts mandatory suspensions, 36-14-525 Amateur mixed martial arts event results, 36-14-530 Responsibilities of amateur mixed martial arts sanctioning organizations and training facilities, 36-14-535 Notification of amateur mixed martial arts events, 36-14-540 Advertisements of events and exhibitions, 36-14-545 Physician requirements for amateur events and 36-14-550 Requirements for ambulance or paramedical unit; and repealing WAC 36-14-500 Amateur organization recognition.

Hearing Location(s): Department of Licensing, Business and Professions Division, Building 2, Conference Room 209, 405 Black Lake Boulevard S.W., Olympia, WA 98502, on November 27, 2012, at 2:00 p.m.

Date of Intended Adoption: November 28, 2012.

Submit Written Comments to: Cameron Dalmas, Professional Athletics Program, Department of Licensing, P.O. Box 9026, Olympia, WA 98507, e-mail pssunit@dol.wa.gov, fax (360) 664-2550, by November 21, 2012.

Assistance for Persons with Disabilities: Contact Cameron Dalmas by November 21, 2012, TTY (360) 664-0116 or (360) 664-6643.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend chapter 36-14 WAC due to the passage of ESHB 2301 regarding amateur mixed martial arts.

The proposed changes will:

- Establish licensing requirements;
- Identify types of martial arts to be included under the regulation of amateur mixed martial arts;
- Adopt standard rules of competition and conduct; and
- Set licensing and renewal fees.

Statutory Authority for Adoption: RCW 67.08.015, 67.08.107, 43.24.023, 43.24.086.

Statute Being Implemented: RCW 67.08.105, 67.08.-017.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Colard, 405 Black Lake Boulevard S.W., Olympia, WA 98502, (360) 664-6647.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not apply under RCW 34.05.310.

WSR 12-21-122
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed October 24, 2012, 7:44 a.m.]

Original Notice.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule revision. Washington state department of licensing is not a named agency, therefore exempt from the provision.

October 24, 2012
 Damon Monroe
 Rules Coordinator

Chapter 36-14 WAC

PROFESSIONAL AND AMATEUR MARTIAL ARTS

AMENDATORY SECTION (Amending WSR 04-16-045, filed 7/28/04, effective 8/28/04)

WAC 36-14-010 Definitions. The following definition(s) will be used throughout this WAC:

~~("Recognized amateur kickboxing or martial arts organization" means any amateur kickboxing or martial arts organization recognized by the department who has not been exempted by statute and provides written documented proof required by WAC 36-14-500.)~~ (1) "Mixed martial arts" in addition to RCW 67.08.002(20), mixed martial arts does not include muay thai and kickboxing.

(2) "Training facility" is a location licensed and defined under chapter 67.08 RCW to hold amateur mixed martial arts exhibitions in that location.

AMENDATORY SECTION (Amending WSR 99-17-048, filed 8/13/99, effective 9/13/99)

WAC 36-14-100 Rule exceptions. (1) If a martial arts, kickboxing, muay thai ((~~or~~)), pankration, or amateur mixed martial arts event is held, in addition to chapter 36-12 WAC, the department may use the *Rules of Competition* as established by the United Full Contact Federation, association of boxing commissions, or rules of competition established by any other professional martial arts organization that afford a similar level of safety to participants. A copy on any *Rules of Competition* used by the department may be obtained through correspondence to the Washington state department of licensing.

(2) Training facilities and amateur mixed martial arts sanctioning organizations are exempt from chapter 36-14 WAC unless specifically identified. All other amateur mixed martial arts events will be overseen by the department and shall comply with the laws and rules of chapter 67.08 RCW.

NEW SECTION

WAC 36-14-1053 Amateur weight difference allowances. Amateur mixed martial arts sanctioning organizations and training facilities shall, at a minimum, ensure all amateur participants meet the following weight requirements for each bout:

- (1) Participants can have no more than a five-pound weight difference allowance for ages fifteen and under.
- (2) Participants can have no more than a ten-pound weight difference allowance for ages sixteen and over.

(3) Subsection (1) and (2) of this section do not apply if both participants weigh two hundred five pounds or more.

AMENDATORY SECTION (Amending WSR 10-08-037, filed 4/1/10, effective 5/2/10)

WAC 36-14-110 License fees, renewals and requirements. (1) The license year is one year from date of issue. License fees are paid annually. Fees shall be as follows:

Manager	-	\$65.00
Referee	-	\$65.00
Kickboxer	-	\$25.00
Martial arts participant	-	\$25.00
<u>Amateur mixed martial arts participant</u>	-	<u>\$25.00</u>
Matchmaker	-	\$65.00
Second	-	\$25.00
Inspector	-	\$65.00
Judge	-	\$65.00
Timekeeper	-	\$65.00
Announcer	-	\$65.00
Event physician	-	No charge
Event chiropractor	-	\$65.00
Promoter	-	\$(200.00) <u>500.00</u>
<u>Training facility</u>	=	<u>\$500.00</u>
<u>Amateur mixed martial arts sanctioning organization</u>	=	<u>\$500.00</u>

(2) All renewal fees shall be the same fee as each original license fee.

(3) Licensing requirements:

(a) Completed application on form approved by the department.

(b) Completed physical within one year (kickboxer, martial arts participant, amateur mixed martial arts participant, and referee only).

(c) One small current photograph, not more than two years old (kickboxer (~~and~~), martial arts participant, and amateur mixed martial arts participants only).

(d) Payment of license fee.

(e) Certification from an organization approved by the department under RCW 67.08.100(3).

(f) Training facility: Have an established place of business that offers training in one or more of the mixed martial arts and a current tax registration through the department of revenue.

(g) Amateur mixed martial arts sanctioning organizations:

(i) Have an established place of business that offers training in one or more of the mixed martial arts;

(ii) Have a current tax registration through the department of revenue;

(iii) Have a minimum of three years total combined amateur or professional experience in at least three of the following areas: Referee, promoter, judge, inspector, have an estab-

lished place of business that offers training in one or more of the mixed martial arts;

(iv) Provide to the department a list of authorized representatives who will be in charge of events or exhibitions. Changes to this list will not be accepted within thirty days prior to an event or exhibition.

(4) Applicants may not participate until all licensing requirements are received and approved by the department of licensing.

AMENDATORY SECTION (Amending WSR 02-23-062, filed 11/18/02, effective 1/1/03)

WAC 36-14-120 Officials compensation fees to be paid by promoter. (1) The following minimum fees shall be paid by the promoter of the event to the event officials for nontitle, nontelevised bouts:

Judge	\$75.00
Timekeeper	\$75.00
Referee (preliminary)	\$110.00
Referee (main event)	\$125.00
Physician	\$250.00
Event chiropractor	\$200.00

(2) The following minimum fees shall be paid by the promoter of the event to event officials for nontitle, televised bouts:

Judges	\$100.00
Timekeepers	\$100.00
Referee (preliminary)	\$135.00
Referee (main event)	\$200.00
Physician	\$250.00
Event chiropractor	\$200.00

(3) In the event of a local, state or regional championship, title fight, or local televised fight, event officials shall be paid by the promoter at the respective and prevailing scale of the professional sanctioning organization. The event officials pay rate shall not be lower than the televised rate established in subsection (2) of this section.

(4) In the event of a championship, title fight, or nationally televised fight, event officials shall be paid by the promoter at the respective and prevailing scale of the professional sanctioning organization but shall not be lower than the rates established below:

Judges	\$150.00
Timekeepers	\$150.00
Referee (preliminary)	\$175.00
Referee (main event)	\$225.00
Physician	\$250.00
Event chiropractor	\$200.00

(5) In the event of a "world" title bout, event officials shall be paid by the promoter at the respective and prevailing scale of the professional sanctioning organization but shall not be lower than the rates established in subsection (4) of

this section. If the "world" title bout is televised, an additional \$200.00 fee per official will be assessed for each judge, timekeeper and referee if the fees listed in subsection (4) of this section are used.

(6) Travel mileage shall be paid to event officials at the rate listed on schedule A, chapter 10.90.10.b of the *State Administrative and Accounting Manual* as published by the office of financial management.

(7) Amateur mixed martial arts sanctioning organizations and training facilities may set their own compensation fees for officials.

AMENDATORY SECTION (Amending WSR 04-16-045, filed 7/28/04, effective 8/28/04)

WAC 36-14-200 Duration of rounds. (~~Except with the approval of the department or the on-site representative~~) All professional and amateur events or exhibitions shall meet the following requirements. This includes amateur mixed martial arts sanctioning organizations and training facilities:

(1) A nonchampionship (~~contest or exhibition of mixed martial arts~~) bout shall not exceed three rounds in duration.

(2) A championship (~~contest of mixed martial arts~~) bout shall not exceed five rounds in duration.

(3) A round (~~in a contest or exhibition of mixed martial arts~~) shall not exceed five minutes in duration (~~A period of rest in the contest or exhibition of mixed martial arts shall not exceed one minute in duration~~) for professionals and three minutes for amateurs.

(4) There shall be a one minute rest period between rounds.

AMENDATORY SECTION (Amending WSR 04-16-045, filed 7/28/04, effective 8/28/04)

WAC 36-14-300 Requirements for ring or enclosed area. (1) Mixed martial arts and martial arts contests and exhibitions (~~may~~) shall be held in a ring or in an enclosed area.

(2) A ring used for a contest or exhibition of mixed martial arts must meet the following requirements:

(a) The ring must be no smaller than sixteen feet square within the ropes.

(b) The ring floor must extend at least twenty-four inches beyond the ropes. The ring floor must be padded with ensoleite or another similar closed-cell foam, with at least a one-inch layer of foam padding. Padding must extend beyond the ring ropes and over the edge of the platform, with a top covering of canvas, duck or similar material tightly stretched and laced to the ring platform.

(c) The ring platform must not be more than four feet above the floor of the building and must have suitable steps for the use of the participants.

(d) Ring posts must be made of metal, not more than three inches in diameter, extending from the floor of the building to a minimum height of fifty-eight inches above the ring floor, and must be properly padded in a manner approved by the department. Ring posts must be at least twenty-four inches away from the ring ropes.

(e) There may be no more than five ring ropes, not less than one inch in diameter and wrapped in soft material. The

lowest ring rope must be at least twelve inches above the ring floor.

(f) There must not be any obstruction or object on any part of the ring floor.

(3) An enclosed area used in a contest or exhibition of mixed martial arts must meet the following requirements:

(a) The enclosed area must be circular or have at least four equal sides and must be no smaller than twenty feet wide.

(b) The floor of the enclosed area must be padded with ensolite or another similar closed-cell foam, with at least a one-inch layer of foam padding, with a top covering of canvas, duck or similar material tightly stretched and laced to the platform of the enclosed area.

(c) The platform of the enclosed area must not be more than four feet above the floor of the building and must have suitable steps for the use of the participants.

(d) Enclosure posts must be made of metal, not more than six inches in diameter, extending from the floor of the building to between five and seven feet above the floor of the enclosed area, and must be properly padded in a manner approved by the department.

(e) The material used to construct the enclosed area must be made of a material that will prevent an unarmed combatant from falling out of the enclosed area or breaking through the enclosed area onto the floor of the building or onto the spectators, including, without limitation, chain link fence coated with vinyl.

(f) Any metal material used in the enclosed area must be covered and padded in a manner approved by the department and must not be abrasive to the participants.

(g) The enclosed area must have at least three entrances.

(h) There must not be any obstruction on any part of the enclosure surrounding the area in which the participants are to be competing.

NEW SECTION

WAC 36-14-505 Age requirements. A participant or contestant must be twelve years of age or older to participate in an amateur mixed martial arts exhibition held in a training facility.

NEW SECTION

WAC 36-14-510 Amateur mixed martial arts fouls, to include amateur mixed martial arts sanctioning organizations and training facilities. The following are minimum required fouls and will result in penalties if committed:

- (1) Holding or grabbing the fence or ropes;
- (2) Holding opponent's shorts or gloves;
- (3) Butting with the head;
- (4) Eye gouging of any kind;
- (5) Biting or spitting at an opponent;
- (6) Hair pulling;
- (7) Fish hooking;
- (8) Groin attacks of any kind;
- (9) Intentionally placing a finger into any orifice, or into any cut or laceration of your opponent;
- (10) Downward pointing elbow strikes;
- (11) Small joint manipulation;

- (12) Strikes to the spine or the back of the head;
- (13) Heel kicks to the kidney;
- (14) Throat strikes of any kind, including, without limitation, grabbing the trachea;
- (15) Clawing, pinching, twisting the flesh or grabbing the clavicle;
- (16) Kicking the head of a grounded opponent;
- (17) Kneeing the head of a grounded opponent;
- (18) Stomping of a grounded fighter;
- (19) The use of abusive language in the fighting area;
- (20) Any unsportsmanlike conduct that causes an injury to opponent;
- (21) Attacking an opponent on or during the break;
- (22) Attacking an opponent who is under the care of the referee;
- (23) Timidity (avoiding contact, or consistently dropping the mouthpiece, or faking an injury);
- (24) Interference from a mixed martial artist's seconds/cornerman;
- (25) Throwing an opponent out of the ring or caged area;
- (26) Flagrant disregard of the referee's instructions;
- (27) Spiking the opponent to the canvas onto the head or neck (pile-driving);
- (28) Attacking an opponent after the bell or horn has sounded the end of the period of unarmed combat;
- (29) Heel hooks;
- (30) Elbows to the head;
- (31) Twisting knee locks;
- (32) Knees to head;
- (33) For ages fifteen and under: Closed fist strikes to the head while on the ground.

NEW SECTION

WAC 36-14-515 Amateur mixed martial arts protective equipment. The following is minimum required equipment to be worn during a bout by all amateur participants or contestants at events or exhibitions:

- (1) Training facilities:
 - Martial arts shin guards with instep pads and volleyball style knee pads;
 - 6 oz. amateur mixed martial arts sparring style gloves that shall be whole, clean, sanitary, and in good condition. An extra set of gloves shall be at ringside prior to the start of the first bout for use in case gloves are damaged during a bout;
 - Mouthpiece;
 - Groin protector (male participants only).
- (2) Amateur mixed martial arts sanctioning organizations:
 - Martial arts shin guards with instep pads and volleyball style knee pads;
 - 6 oz. amateur mixed martial arts sparring style gloves, supplied by the promoter, that shall be whole, clean, sanitary, and in good condition. An extra set of gloves shall be provided by the promoter to the representative in charge of the event prior to the start of the first bout for use in case gloves are damaged during a bout;
 - Mouthpiece;
 - Groin protector (male participants only).

(3) Department of licensing:

- 6 oz. amateur mixed martial arts sparring style gloves, supplied by the promoter, that shall be whole, clean, sanitary, and in good condition;
- An extra set of gloves shall be provided by the promoter to the department representative prior to the start of the first bout for use in case gloves are damaged during a bout;
- Mouthpiece;
- Groin protector (male participants only).

NEW SECTION

WAC 36-14-520 Amateur mixed martial arts mandatory suspensions. (1) The department and amateur mixed martial arts sanctioning organizations shall assess the following suspensions for participating in an amateur mixed martial arts event:

- Six-day minimum suspension;
- Thirty-day suspension for a technical knockout;
- Sixty-day suspension for a knockout;
- A physician may recommend a longer suspension based on the medical condition of the participant.

(2) Amateur mixed martial arts sanctioning organizations shall report suspensions to the department after an event in a manner defined by the department.

NEW SECTION

WAC 36-14-525 Amateur mixed martial arts event results. The department and amateur mixed martial arts sanctioning organization shall report event results to a nationally recognized record keeping data base in a manner defined by the department.

NEW SECTION

WAC 36-14-530 Responsibilities of amateur mixed martial arts sanctioning organizations and training facilities. (1) It is the responsibility of the amateur mixed martial arts sanctioning organization and training facility to ensure the health and safety of the participants and to ensure the laws and rules governing amateur mixed martial arts are followed.

(2) A representative must be present at the event or exhibition location during the entire event or exhibition.

NEW SECTION

WAC 36-14-535 Notification of amateur mixed martial arts events. Amateur mixed martial arts sanctioning organizations must notify the department in writing fourteen days prior to an event with the following information:

- Name of licensed promoter;
- Date and time of event;
- Location of event;
- Name of representative in charge of the event.

NEW SECTION

WAC 36-14-540 Advertisements of events and exhibitions. Promoters, including promoters of amateur mixed martial arts events held under an amateur mixed martial arts

sanctioning organization, and training facilities shall state in all advertisements whether the event is professional, professional and amateur, or amateur.

NEW SECTION

WAC 36-14-545 Physician requirements for amateur events. (1) Promoters of an amateur mixed martial arts event held under an amateur mixed martial arts sanctioning organization shall have at least one physician in attendance at the event.

(2) The promoter shall provide the event physician with a suitable place to perform the preflight physical examinations.

(3) Event physicians shall:

(a) Examine the participants within twenty-four hours prior to the start of an event and provide a report to the representative in charge of the event in writing that discloses the results of the examinations and recommendations.

(b) Recommend to the representative in charge of the event that the participant or referee not participate in the event if a condition is found that would be harmful or unsafe during the preflight examination.

(c) Be at ringside during all the bouts in an event and shall be prepared to provide medical assistance to a participant if requested by the referee.

(4) The event physician may inspect first-aid equipment used by seconds.

NEW SECTION

WAC 36-14-550 Requirements for ambulance or paramedical unit. Promoters shall provide an ambulance or paramedical unit with transport and resuscitation capabilities, with a minimum of two attendants, to be present at the event location at all times during the event. This section also applies to promoters of an amateur mixed martial arts event held under an amateur mixed martial arts sanctioning organization.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 36-14-500 Amateur organization recognition.

**WSR 12-21-123
PROPOSED RULES
DEPARTMENT OF LICENSING**

[Filed October 24, 2012, 8:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-18-022.

Title of Rule and Other Identifying Information: Rule: WAC 308-89-060 Fees.

Subject: Licensing fee increase for vehicles for hire.

Hearing Location(s): Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard S.W., First Floor, Conference Room 2105, Olympia, WA 98502, on November 27, 2012, at 10:00 a.m.

Date of Intended Adoption: November 30, 2012.

Submit Written Comments to: James Dick, Department of Licensing, P.O. Box 9024, Olympia, WA 98507-9024, e-mail collect@dol.wa.gov, fax (360) 570-7053, by November 26, 2012.

Assistance for Persons with Disabilities: Contact James Dick by November 19, 2012, at collect@dol.wa.gov, or (360) 664-1389 or TTY (360) 664-0116.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal increases the vehicles for hire licensing fees, as authorized by the 2012 legislative session budget bill, ESHB 2190, section 208(20): "Consistent with RCW 43.135.055 and 43.24.086, during the 2011-2013 fiscal biennium, the legislature authorizes the department to adjust the business and vehicle fees for the for hire licensing program in amounts sufficient to recover the costs of administering the for hire licensing program."

Reasons Supporting Proposal: Fiscal analysis and forecasting indicate that full cost recovery would mean that the fees would be as proposed.

Statutory Authority for Adoption: RCW 46.72.120.

Statute Being Implemented: Chapter 46.72 RCW and ESHB 2190, section 208(20).

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: James Dick, Olympia, Washington, (360) 664-1389; and Enforcement: Margaret Eby, Olympia, Washington, (360) 664-1389.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Since for hire businesses are small businesses, there is no disproportionate cost impact on small businesses and there would be no basis to perform a compliance cost survey between small businesses and the ten percent of businesses that are the largest of these businesses, as required in RCW 19.85.040(1).

A cost-benefit analysis is not required under RCW 34.05.328. The department of licensing is exempt from the provisions of this law. The department of licensing is not a named agency in RCW 34.05.328 (5)(a)(i).

October 24, 2012
Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-16-032, filed 8/1/96, effective 9/1/96)

WAC 308-89-060 Fees. The department, as authorized in RCW 46.72, shall charge and collect the following fees:

New for hire business application	\$(20.00) <u>110.00</u>
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New vehicle certificate	(20.00) <u>55.00</u>
Vehicle certificate renewal	(20.00) <u>55.00</u>
Change of vehicle certificate	(20.00) <u>55.00</u>
Duplicate vehicle certificate	(20.00) <u>55.00</u>

**WSR 12-21-125
PROPOSED RULES
DEPARTMENT OF ECOLOGY**

[Order 12-01—Filed October 24, 2012, 9:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-12-017.

Title of Rule and Other Identifying Information: The department of ecology (ecology) proposes to adopt amendments to certain portions of State Environmental Policy Act (SEPA), chapter 197-11 WAC. This rule provides uniform requirements for compliance with SEPA.

Hearing Location(s): Department of Ecology, 300 Desmond Drive, Lacey, WA 98503, call in number to participate and provide comments by phone 1-800-704-9805, pin number 543362#, on December 4, 2012, hearing #1 starts at 1:30 p.m. and hearing #2 starts at 6:30 p.m. Ecology will have a presentation, followed by a question and answer session, followed by the formal hearing.

Date of Intended Adoption: December 28, 2012.

Submit Written Comments to: Fran Sant, Department of Ecology, P.O. Box 47703, Olympia, WA 98504, e-mail separulemaking@ecy.wa.gov, fax (360) 407-6904, by December 11, 2012.

Assistance for Persons with Disabilities: Contact Fran Sant at (360) 407-6932 by November 28, 2012, TTY 1-800-833-8973 or (360) 407-6932.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal would increase the flexible thresholds that local governments may adopt to exempt minor new construction projects from SEPA review. Proposed changes include:

- Establishing separate flexible exemption thresholds for local governments in counties fully planning under RCW 36.70A.040 and local governments in other counties.
- Revising the process that local governments follow in adopting flexible SEPA exemption thresholds.
- Revising and clarifying language related to the "residential," "parking lot" and "landfill and excavation" categories of minor new construction.

The proposal would increase the exemption threshold for SEPA review of electric facilities.

The proposal includes added flexibility for all lead agencies to improve the efficiency of the environmental checklist.

This includes allowing for electronic submittal of the environmental checklist, including electronic signature.

Reasons Supporting Proposal: Section 301, chapter 1, Laws of 2012 1st sp. sess. (2ESSB 6406) directs ecology to update the SEPA rules. The 2012 legislature directed ecology to modernize the SEPA rules.

Statutory Authority for Adoption: State Environmental Policy Act, RCW 43.21C.110.

Statute Being Implemented: Chapter 43.21C RCW.

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: Tom Clingman, Department of Ecology, Lacey, Washington, (360) 407-7448; Implementation: Brenden McFarland, Department of Ecology, Lacey, Washington, (360) 407-6976; and Enforcement: Not applicable.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed amendments meet the criteria of exemption from analysis under RCW 19.85.030 which requires an agency to prepare a small business economic impact state [statement] (SBEIS) "if the proposed rule will impose more than minor cost on business or any industry." The proposed amendments to ecology's SEPA rules don't impose any costs on business. Therefore, a SBEIS is not required for the proposed rule amendments.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Fran Sant, Department of Ecology, P.O. Box 47703, Olympia, WA 98504, phone (360) 407-6932, fax (360) 407-6904, e-mail separulemaking@ecy.wa.gov.

October 23, 2012

Polly Zehm
Deputy Director

AMENDATORY SECTION (Amending Order 95-16, filed 10/10/97, effective 11/10/97)

WAC 197-11-315 Environmental checklist. (1) Agencies shall use the environmental checklist substantially in the form found in WAC 197-11-960 to assist in making threshold determinations for proposals, except for:

(a) Public proposals on which the lead agency has decided to prepare its own EIS; or

(b) Proposals on which the lead agency and applicant agree an EIS will be prepared; or

(c) Projects which are proposed as planned actions (see subsection (2) of this section); or

(d) Projects where questions on the checklist are adequately covered by existing legal authorities (see subsection (6) of this section); or

(e) Nonproject proposals where the lead agency determines that questions in Part B do not contribute meaningfully to the analysis of the proposal. In such cases, Parts A, C, and D at a minimum shall be completed.

(2) For projects submitted as planned actions under WAC 197-11-164, a GMA county/city shall use the existing environmental checklist or modify the environmental checklist form to fulfill the purposes outlined in WAC 197-11-

172(1), notwithstanding the requirements of WAC 197-11-906(4).

If the GMA county/city chooses to modify the existing environmental checklist, the modified form shall be submitted to the department of ecology to allow at least a thirty-day review prior to use. The department shall notify the GMA county/city within thirty days of receipt if it has any objections to the modified form and the general nature of the objections. If the department objects, the modified form shall not be used until the GMA county/city and the department have reached agreement.

(3) Agencies may use an environmental checklist whenever it would assist in their planning and decision making, but shall only require an applicant to prepare a checklist under SEPA if a checklist is required by subsection (1) of this section.

(4) The lead agency shall prepare the checklist or require an applicant to prepare the checklist.

(5) The items in the environmental checklist are not weighted. The mention of one or many adverse environmental impacts does not necessarily mean that the impacts are significant. Conversely, a probable significant adverse impact on the environment may result in the need for an EIS.

(6) The lead agency for an environmental review under this chapter may identify within the checklist provided to applicants, instances where questions on the checklist are adequately covered by a locally adopted ordinance, development regulation, land use plan, or other legal authority. A lead agency still must consider whether the action has an impact on the particular element or elements of the environment in question.

(a) In instances where the locally adopted ordinance, development regulation, land use plan, or other legal authority provide the necessary information to answer a specific question, the lead agency must explain how the proposed project satisfies the underlying local legal authority.

(b) If the lead agency identifies instances where questions on the checklist are adequately covered by a locally adopted ordinance, development regulation, land use plan, or other legal authority, an applicant may still provide answers to any questions on the checklist.

(c) Nothing in this section authorizes a lead agency to ignore or delete a question on the checklist.

(7) The lead agency may determine the appropriate methods for receipt of electronic submittals of the checklist from applicants including electronic signature of Part C of the checklist.

(8) Lead agencies may include helpful information (including web links) in the checklist to assist applicants in completing the questions.

AMENDATORY SECTION (Amending Order 02-12, filed 8/1/03, effective 9/1/03)

WAC 197-11-800 Categorical exemptions. The proposed actions contained in Part Nine are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC 197-11-305.

Note: The statutory exemptions contained in chapter 43.21C RCW are not included in Part Nine. Chapter 43.21C RCW should be reviewed in determining whether a proposed action not listed as categorically exempt in Part Nine is exempt by statute from threshold determination and EIS requirements.

(1) Minor new construction(~~(—)~~) - Flexible thresholds.

(a) The exemptions in this subsection apply to all licenses required to undertake the construction in question, except when a rezone or any license governing emissions to the air or discharges to water is required. To be exempt under this subsection, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in (b) of this subsection shall control, unless the city/county in which the project is located establishes an exempt level under (c) of this subsection. If the proposal is located in more than one city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency.

(b) The following types of construction shall be exempt, except when undertaken wholly or partly on lands covered by water:

(i) The construction or location of ~~((any))~~ four detached single family residential ((structures of four dwelling)) units.

(ii) The construction or location of four multifamily residential units.

(iii) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

~~((iii))~~ (iv) The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for twenty automobiles. This exemption includes stand-alone parking lots.

~~((iv))~~ The construction of a parking lot designed for twenty automobiles.)

(v) Any stand-alone landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation not associated with an exempt project in subsection (b)(i), (ii), (iii), or (iv); and any fill or excavation classified as a Class I,

II, or III forest practice under RCW 76.09.050 or regulations thereunder.

(c) Cities, towns or counties may raise the exempt levels to the maximum specified in Table 1 below by implementing ordinance or resolution. Such levels shall be specified in the agency's SEPA procedures (WAC 197-11-904) ~~((and sent to the department of ecology. A newly established exempt level shall be supported by local conditions, including zoning or other land use plans or regulations)).~~ Separate maximum optional thresholds are established in Table 1 applying to incorporated areas and unincorporated urban growth areas in fully planning jurisdictions under RCW 36.70A.040; other unincorporated areas in fully planning counties; and jurisdictions in all other counties. Agencies may adopt the maximum level or a level between the default and maximum level. An agency may adopt a system of several exempt levels (such as different levels for different geographic areas).

At a minimum, the following process shall be met in order to establish a new flexible exemption level.

(i) Documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment (listed in WAC 197-11-444) have been adequately addressed. These can be addressed in specific adopted development regulations, comprehensive plans and applicable state and federal regulations.

(ii) Description in the findings or other appropriate section of the adopting ordinance or resolution of the locally established project-level public comment opportunities that are provided for proposals included in these increased exemption levels.

(iii) Before adopting the ordinance or resolution containing the proposed new exemption levels, the local government shall provide a minimum of twenty-one days notice to affected tribes, agencies with expertise, affected jurisdictions, the department of ecology, and the public and provide an opportunity for comment.

The maximum exempt levels for the exemptions in (1)(b) of this section ~~((shall be, respectively:~~

- ~~(i) 20 dwelling units;~~
- ~~(ii) 30,000 square feet;~~
- ~~(iii) 12,000 square feet; 40 automobiles;~~
- ~~(iv) 40 automobiles;~~
- ~~(v) 500 cubic yards))~~ are identified in Table 1.

Table 1

Levels	Fully planning GMA counties		All other counties
	Incorporated and unincorporated UGA	Other unincorporated areas	Incorporated and unincorporated areas
Single family residential (# of units)	30	20	20
Multifamily residential (# of unit)	60	25	25
Agricultural (sq. ft.)	40,000	40,000	40,000
Office, school, commercial + parking (sq. ft. + # of spots)	30,000 + 90	12,000 + 40	12,000 + 40
Landfill or excavation (cu. yds.)	1,000	1,000	1,000

(2) **Other minor new construction.** The following types of construction shall be exempt except where undertaken wholly or in part on lands covered by water (unless spe-

cifically exempted in this subsection); the exemptions provided by this section shall apply to all licenses required to undertake the construction in question, except where a rezone

or any license governing emissions to the air or discharges to water is required:

(a) The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles.

(b) The construction and/or installation of commercial on-premise signs, and public signs and signals.

(c) The construction or installation of minor road and street improvements such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators, transportation corridor landscaping (including the application of Washington state department of agriculture approved herbicides by licensed personnel for right of way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights of way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right of way is required, adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new right of way is required, channelization and elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation, installation of catch basins and culverts, and reconstruction of existing roadbed (existing curb-to-curb in urban locations), including adding or widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not including additional automobile lanes.

(d) Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections (1) and (2) of this section, as well as fencing and the construction of small structures and minor facilities accessory thereto.

(e) Additions or modifications to or replacement of any building or facility exempted by subsections (1) and (2) of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class.

(f) The demolition of any structure or facility, the construction of which would be exempted by subsections (1) and (2) of this section, except for structures or facilities with recognized historical significance.

(g) The installation of impervious underground tanks, having a capacity of 10,000 gallons or less.

(h) The vacation of streets or roads.

(i) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.

(j) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

(3) Repair, remodeling and maintenance activities. The following activities shall be categorically exempt: The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, involving no material expansions or changes in use beyond that previously existing; except that,

where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:

(a) Dredging;

(b) Reconstruction/maintenance of groins and similar shoreline protection structures; or

(c) Replacement of utility cables that must be buried under the surface of the bedlands. Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.

(4) Water rights. Appropriations of one cubic foot per second or less of surface water, or of 2,250 gallons per minute or less of groundwater, for any purpose. The exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit required for a normal diversion or intake structure, well and pumphouse reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation.

(5) Purchase or sale of real property. The following real property transactions by an agency shall be exempt:

(a) The purchase or acquisition of any right to real property.

(b) The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to an authorized public use.

(c) The lease of real property when the use of the property for the term of the lease will remain essentially the same as the existing use, or when the use under the lease is otherwise exempted by this chapter.

(6) Minor land use decisions. The following land use decisions shall be exempt:

(a) Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060, but not including further short subdivisions or short platting within a plat or subdivision previously exempted under this subsection.

(b) Granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.

(c) Classifications of land for current use taxation under chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW.

(7) Open burning. Opening burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning shall not be exempt.

(8) Clean Air Act. The granting of variances under RCW 70.94.181 extending applicable air pollution control requirements for one year or less shall be exempt.

(9) Water quality certifications. The granting or denial of water quality certifications under the Federal Clean Water

Act (Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1341) shall be exempt.

(10) **Activities of the state legislature.** All actions of the state legislature are exempted. This subsection does not exempt the proposing of legislation by an agency (WAC 197-11-704).

(11) **Judicial activity.** The following shall be exempt:

(a) All adjudicatory actions of the judicial branch.

(b) Any quasi-judicial action of any agency if such action consists of the review of a prior administrative or legislative decision. Decisions resulting from contested cases or other hearing processes conducted prior to the first decision on a proposal or upon any application for a rezoning, conditional use permit or other similar permit not otherwise exempted by this chapter, are not exempted by this subsection.

(12) **Enforcement and inspections.** The following enforcement and inspection activities shall be exempt:

(a) All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection.

(b) All inspections conducted by an agency of either private or public property for any purpose.

(c) All activities of fire departments and law enforcement agencies except physical construction activity.

(d) Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides and chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection.

(e) Any suspension or revocation of a license for any purpose.

(13) **Business and other regulatory licenses.** The following business and other regulatory licenses are exempt:

(a) All licenses to undertake an occupation, trade or profession.

(b) All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits.

(c) All licenses to operate or engage in amusement devices and rides and entertainment activities, including but not limited to cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction of any of the above.

(d) All licenses to operate or engage in charitable or retail sales and service activities, including but not limited to peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers.

(e) All licenses for private security services, including but not limited to detective agencies, merchant and/or resi-

dential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services.

(f) All licenses for vehicles for-hire and other vehicle related activities including, but not limited to, taxicabs, ambulances, and tow trucks: Provided, That regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection.

(g) All licenses for food or drink services, sales, and distribution, including but not limited to restaurants, liquor, and meat.

(h) All animal control licenses, including but not limited to pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection.

(i) The renewal or reissuance of a license regulating any present activity or structure so long as no material changes are involved.

(14) **Activities of agencies.** The following administrative, fiscal and personnel activities of agencies shall be exempt:

(a) The procurement and distribution of general supplies, equipment and services authorized or necessitated by previously approved functions or programs.

(b) The assessment and collection of taxes.

(c) The adoption of all budgets and agency requests for appropriation: Provided, That if such adoption includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection.

(d) The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals.

(e) The review and payment of vouchers and claims.

(f) The establishment and collection of liens and service billings.

(g) All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force.

(h) All agency organization, reorganization, internal operational planning or coordination of plans or functions.

(i) Adoptions or approvals of utility, transportation and solid waste disposal rates.

(j) The activities of school districts pursuant to desegregation plans or programs; however, construction of real property transactions or the adoption of any policy, plan or program for such construction of real property transaction shall not be considered exempt under this subsection.

(15) **Financial assistance grants.** The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project. This exemption includes agencies taking nonproject actions that are necessary to apply for federal or other financial assistance.

(16) **Local improvement districts.** The formation of local improvement districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under WAC 197-11-800 and 197-11-880.

(17) **Information collection and research.** Basic data collection, research, resource evaluation, requests for propos-

als (RFPs), and the conceptual planning of proposals shall be exempt. These may be strictly for information-gathering, or as part of a study leading to a proposal that has not yet been approved, adopted or funded; this exemption does not include any agency action that commits the agency to proceed with such a proposal. (Also see WAC 197-11-070.)

(18) **Acceptance of filings.** The acceptance by an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.

(19) **Procedural actions.** The proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be exempt. Agency SEPA procedures shall be exempt.

(20) **Building codes.** The adoption by ordinance of all codes as required by the state Building Code Act (chapter 19.27 RCW).

(21) **Adoption of noise ordinances.** The adoption by counties/cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not differ from regulations adopted by the department of ecology under chapter 70.107 RCW. When a county/city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations (and thus requires approval of the department of ecology under RCW 70.107.060(4)), SEPA compliance may be limited to those items which differ from state regulations.

(22) **Review and comment actions.** Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.

(23) **Utilities.** The utility-related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class.

(a) All communications lines, including cable TV, but not including communication towers or relay stations.

(b) All storm water, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines eight inches or less in diameter.

(c) All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; ~~(and)~~ the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (more than 55,000 volts); within existing rights of way or developed utility corridors, all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 115,000 volts or less; and the undergrounding of all electric facilities, lines, equipment or appurtenances.

(d) All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups.

(e) All developments within the confines of any existing electric substation, reservoir, pump station or well: Provided, That additional appropriations of water are not exempted by this subsection.

(f) Periodic use of chemical or mechanical means to maintain a utility or transportation right of way in its design condition: Provided, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

(g) All grants of rights of way by agencies to utilities for use for distribution (as opposed to transmission) purposes.

(h) All grants of franchises by agencies to utilities.

(i) All disposals of rights of way by utilities.

(24) **Natural resources management.** In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:

(a) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land that has been subject to a grazing lease within the previous ten years.

(b) Licenses or approvals to remove firewood.

(c) Issuance of agricultural leases covering one hundred sixty contiguous acres or less.

(d) Issuance of leases for Christmas tree harvesting or brush picking.

(e) Issuance of leases for school sites.

(f) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.

(g) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve campsites.

(h) Periodic use of chemical or mechanical means to maintain public park and recreational land: Provided, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

(i) Issuance of rights of way, easements and use permits to use existing roads in nonresidential areas.

(j) Establishment of natural area preserves to be used for scientific research and education and for the protection of rare flora and fauna, under the procedures of chapter 79.70 RCW.

(25) **Personal wireless service facilities.**

(a) The siting of personal wireless service facilities are exempt if the facility:

(i) Is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school;

(ii) Includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or school, and the existing structure to which it is to be attached is located in a commercial, industrial, manufacturing, forest, or agriculture zone; or

(iii) Involves constructing a personal wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone.

(b) For the purposes of this subsection:

(i) "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(ii) "Personal wireless service facilities" means facilities for the provision of personal wireless services.

(iii) "Microcell" means a wireless communication facility consisting of an antenna that is either:

(A) Four feet in height and with an area of not more than five hundred eighty square inches; or

(B) If a tubular antenna, no more than four inches in diameter and no more than six feet in length.

(c) This exemption does not apply to projects within a critical area designated under GMA (RCW 36.70A.060).

AMENDATORY SECTION (Amending Order DE 83-39, filed 2/10/84, effective 4/4/84)

WAC 197-11-906 Content and consistency of agency procedures. (1)(a) Agency SEPA policies and procedures shall implement and be consistent with the rules in this chapter. Unless optional or permissive (see WAC 197-11-704), all of the provisions of this chapter are mandatory, and agency procedures shall incorporate these rules and criteria.

(b) Permissive and optional rules shall *not* be construed as mandatory requirements. Rules giving encouragement or guidance shall also not be construed as mandatory. The decision on whether to apply an optional provision rests with the responsible official.

(c) Except as stated in the next subsection, the rules in this chapter are not exclusive, and agencies may add procedures and criteria. However, any additional material shall not be inconsistent with, contradict, or make compliance with any provision of these rules a practical impossibility. Any additional material shall be consistent with SEPA.

(d) Agency procedures shall also include the procedures required by sections WAC 197-11-055 (3)(a) and (4), 197-11-420 (1) and (4), and 197-11-910.

(e) Agency procedures may include procedures under WAC 197-11-055 (2) and (7), 197-11-100(3), 197-11-680, 197-11-714(2), 197-11-800(1), and 197-11-908. Any such procedures shall include the content required by those rules.

(2) The following provisions of this chapter are exclusive and may not be added to or changed in agency procedures:

(a) The definitions of "proposal," "major," "action," "significant," "affecting," "environment," "categorical exemption," "agencies with jurisdiction," "lands covered by water," "built environment," "natural environment," "license," "licensing," "mitigation," and "scope";

(b) The criteria for lead agency determination (Part Ten of these rules);

(c) The categorical exemptions in Part Nine of these rules, unless expressly allowed under Part Nine;

(d) The information allowed to be required of applicants under WAC 197-11-080, 197-11-100, 197-11-335, and 197-11-420;

(e) The requirements for the style and size of an EIS (WAC 197-11-425);

(f) The list of elements of the environment (WAC 197-11-444); and

(g) The provisions on substantive authority and mitigation in WAC 197-11-660.

(3) The following provisions of this chapter may not be changed, but may be added to; any additions shall meet the criteria for additional material stated in subsection (1)(c) of this section:

(a) All other definitions in Part Eight of these rules;

(b) The provisions in Parts Four and Five of these rules, except as necessary to be grammatically incorporated into agency procedures;

(c) The contents of agency SEPA procedures (WAC 197-11-906); and

(d) The list of agencies with environmental expertise (WAC 197-11-920).

(4) The forms in Part Eleven shall be used substantially as set forth. Minor changes are allowed to make the forms more useful to agencies, applicants, and the public, as long as the changes do not eliminate requested information or impose burdens on applicants. ~~((The questions in Part Two of the environmental checklist shall not be altered.))~~

AMENDATORY SECTION (Amending Order DE 83-39, filed 2/10/84, effective 4/4/84)

WAC 197-11-960 Environmental checklist.

ENVIRONMENTAL CHECKLIST

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete

answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, ~~((even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D)))~~ including the supplemental sheet for nonproject actions (Part D). When the questions for the environmental elements (Part B) do not contribute meaningfully to the analysis of the proposal, they may be excluded by the lead agency.

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:
2. Name of applicant:
3. Address and phone number of applicant and contact person:
4. Date checklist prepared:
5. Agency requesting checklist:
6. Proposed timing or schedule (including phasing, if applicable):
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.
10. List any government approvals or permits that will be needed for your proposal, if known.
11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may

modify this form to include additional specific information on project description.)

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

EVALUATION FOR
AGENCY USE

TO BE COMPLETED BY APPLICANT

ONLY

B. ENVIRONMENTAL ELEMENTS

1. **Earth**

- a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other
 - b. What is the steepest slope on the site (approximate percent slope)?
 - c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.
 - d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.
 - e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.
 - f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.
 - g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?
 - h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:
2. **Air**
- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

- b. Are there any offsite sources of emissions or odor that may affect your proposal? If so, generally describe.
- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

3. **Water**

- a. Surface:
 - 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.
 - 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.
 - 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.
 - 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.
 - 5) Does the proposal lie within a 100-year flood plain? If so, note location on the site plan.
 - 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

- b. Ground:
 - 1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.
 - 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

- c. Water runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

2) Could waste materials enter ground or surface waters? If so, generally describe.

- d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

4. **Plants**

- a. Check or circle types of vegetation found on the site:
 - Deciduous tree: Alder, maple, aspen, other
 - Evergreen tree: Fir, cedar, pine, other
 - Shrubs
 - Grass
 - Pasture
 - Crop or grain
 - Wet soil plants: Cattail, buttercup, bullrush, skunk cabbage, other
 - Water plants: Water lily, eelgrass, milfoil, other
 - Other types of vegetation
- b. What kind and amount of vegetation will be removed or altered?
- c. List threatened or endangered species known to be on or near the site.
- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

5. **Animals**

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:
 - Birds: Hawk, heron, eagle, songbirds,
 - other:
 - Mammals: Deer, bear, elk, beaver,
 - other:
 - Fish: Bass, salmon, trout, herring, shellfish,
 - other:
- b. List any threatened or endangered species known to be on or near the site.
- c. Is the site part of a migration route? If so, explain.
- d. Proposed measures to preserve or enhance wildlife, if any:

6. Energy and natural resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.
- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

7. Environmental health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

1) Describe special emergency services that might be required.

2) Proposed measures to reduce or control environmental health hazards, if any:

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

3) Proposed measures to reduce or control noise impacts, if any:

8. Land and shoreline use

- a. What is the current use of the site and adjacent properties?
- b. Has the site been used for agriculture? If so, describe.
- c. Describe any structures on the site.
- d. Will any structures be demolished? If so, what?
- e. What is the current zoning classification of the site?

f. What is the current comprehensive plan designation of the site?

g. If applicable, what is the current shoreline master program designation of the site?

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

i. Approximately how many people would reside or work in the completed project?

j. Approximately how many people would the completed project?

k. Proposed measures to avoid or reduce displacement impacts, if any:

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

c. Proposed measures to reduce or control housing impacts, if any:

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

b. What views in the immediate vicinity would be altered or obstructed?

c. Proposed measures to reduce or control aesthetic impacts, if any:

11. Light and glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

- b. Could light or glare from the finished project be a safety hazard or interfere with views?
- c. What existing offsite sources of light or glare may affect your proposal?
- d. Proposed measures to reduce or control light and glare impacts, if any:

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?
- b. Would the proposed project displace any existing recreational uses? If so, describe.
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

13. Historic and cultural preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.
- b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.
- c. Proposed measures to reduce or control impacts, if any:

14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.
- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?
- c. How many parking spaces would the completed project have? How many would the project eliminate?
- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.
- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.
- g. Proposed measures to reduce or control transportation impacts, if any:

15. Public services

- a. Would the project result in an increased need for public services (for example: Fire protection, police protection, health care, schools, other)? If so, generally describe.
- b. Proposed measures to reduce or control direct impacts on public services, if any.

16. Utilities

- a. Circle utilities currently available at the site: Electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:

Date Submitted:

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

WSR 12-21-132
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed October 24, 2012, 9:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-18-076.

Title of Rule and Other Identifying Information: Chapter 16-474 WAC, Eastern filbert blight quarantine. The department is proposing to establish a quarantine that would place restrictions on the importation of hazelnut plants into Washington state in response to eastern filbert blight.

Hearing Location(s): Washington State Department of Agriculture, 117 North First, Suite 39, 2nd Floor, Mt. Vernon, WA 98273, on November 29, 2012, at 11:00 a.m.

Date of Intended Adoption: December 6, 2012.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail hgonzales@agr.wa.gov, fax (360) 902-2094, by November 29, 2012.

Assistance for Persons with Disabilities: Contact Henri Gonzales by November 20, 2012, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: At the request of Washington's filbert growers, the department is proposing to establish a quarantine that requires hazelnut planting stock from states east of the Rocky Mountains, including all of Montana, Wyoming, Colorado, and New Mexico, to originate from an area free of the fungus *Anisogramma anomala* or be micro-propagated and shipped in artificial culture media in a sealed container. In addition, the quarantine requires hazelnut planting stock from all other states to be inspected during the last growing season and found free of eastern filbert blight. Establishment of a quarantine may better protect the commercial hazelnut industry from an economically significant plant disease.

Reasons Supporting Proposal: Eastern filbert blight is a highly infectious plant disease affecting hazelnuts (also called filberts) and closely related species. It is caused by the fungus *Anisogramma anomala*. Until recently, varieties of hazelnuts grown in the Pacific Northwest were resistant to the local strain of *A. anomala*. However, more virulent strains of *A. anomala* have been found in the eastern portion of the United States. If these more virulent, exotic strains are introduced into Washington, the disease resistance of local commercial and ornamental varieties of hazelnuts will decline and may be lost, resulting in potentially devastating economic consequences to growers, loss of ornamental or landscape hazelnut plants, and environmental consequences of removing habitat and food sources for wildlife. Members of the Washington industry have requested that the department consider a rule to protect the local crop.

Statutory Authority for Adoption: RCW 17.24.041, 15.13.260, and chapter 34.05 RCW.

Statute Being Implemented: RCW 17.24.041.

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

Name of Proponent: Growers Society of Oregon, Washington & British Columbia, private.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tom Wessels, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1984.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not have a more than minor economic impact on the commercial hazelnut industry. Chapter 15.13 RCW already requires all horticulture plants shipped into the state to be certified free of plant pests, so this more specific rule proposal would furnish specific protections to hazelnut growers, but not add additional economically consequential regulations to Washington businesses. In addition, neglecting to establish a quarantine specific to eastern filbert blight may result in extensive economic loss to the Washington hazelnut crop.

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

October 24, 2012

Mary A. Martin Toohey
Assistant Director

Chapter 16-474 WAC

EASTERN FILBERT BLIGHT QUARANTINE

NEW SECTION

WAC 16-474-001 Eastern filbert blight—Establishing quarantine. A quarantine is established under chapters 17.24 and 15.13 RCW to protect the Washington hazelnut industry from exotic strains of the eastern filbert blight disease. Eastern filbert blight is a highly infectious plant disease affecting hazelnuts (also called filberts) and closely related species. It is caused by the fungus *Anisogramma anomala*. Until recently, varieties of hazelnuts grown in the Pacific Northwest were resistant to the local strain of *A. anomala*. However, more virulent strains of *A. anomala* have been found in the eastern portion of the United States. If these more virulent, exotic strains are introduced into Washington, the disease resistance of local commercial and ornamental varieties of hazelnuts will decline and may be lost, resulting in potentially devastating economic consequences to growers, loss of ornamental or landscape hazelnut plants, and environmental consequences of removing habitat and food sources for wildlife.

NEW SECTION

WAC 16-474-005 Eastern filbert blight—Definitions. "Department" means the Washington state department of agriculture.

"Eastern filbert blight" means a disease of hazelnut plants caused by the fungus *Anisogramma anomala*.

"Hazelnut plant" means plants and plant parts of any species in the genus *Corylus*.

"Micropropagate" means plant propagation using aseptic laboratory techniques and artificial culture medium.

"Pest free area" means an area where eastern filbert blight does not occur, as demonstrated by scientific evidence, and where this condition is being officially maintained.

"Phytosanitary certificate" means a certificate issued by a government agency under authority of state or federal statute, which declares or establishes the pest status of a shipment of plants or plant parts under accepted inspection or sampling procedures. Phytosanitary certificates are patterned after model certificates of the International Pest Protection Convention.

NEW SECTION

WAC 16-474-010 Eastern filbert blight—Area under quarantine. The area under quarantine consists of all states and territories of the United States outside of the state of Washington.

NEW SECTION

WAC 16-474-015 Eastern filbert blight—Regulated articles. All plants and plant parts of any species of the genus *Corylus* are regulated, except edible nuts that are free of green twigs and other plant debris that may harbor *Anisogramma anomala*.

NEW SECTION

WAC 16-474-020 Eastern filbert blight—Restrictions. (1) Regulated articles from any area east of the Rocky Mountains, including all of Montana, Wyoming, Colorado, and New Mexico, are prohibited unless accompanied by a phytosanitary certificate with one of the following declarations:

(a) The hazelnut plants originate from a pest free area for eastern filbert blight.

(b) The hazelnut plants are micropropagated and shipped in artificial culture medium in sealed containers.

(2) Regulated articles from any area except the area addressed in subsection (1) of this section must be accompanied by a phytosanitary certificate stating that the hazelnut plants have been inspected by the certifying agency during the last active growing season and found free of eastern filbert blight.

NEW SECTION

WAC 16-474-025 Eastern filbert blight—Disposition of articles not in compliance. The department will refuse admittance into the state of all regulated articles not complying with the requirements of this rule. If regulated articles enter the state in violation of eastern filbert blight quarantine provisions, the owner or the owner's responsible agent will be given the option of destroying the material in a manner that will prevent dissemination of any *Anisogramma anomala* or immediately sending it out-of-state.

NEW SECTION

WAC 16-474-030 Eastern filbert blight—Permits. The department may issue permits waiving portions of this

chapter and specifying conditions under which regulated material may be imported from the quarantine area in the following situations:

(1) The material is *Corylus* planting stock being imported by Washington State University or USDA for experimental or trial purposes; or

(2) No more than twenty-five plants are being imported by a grower as source material for micropropagation, and these plants will be isolated and held until the department determines them to be free of *Anisogramma anomala*. As a condition of the permit, the permit holder may be required to hold these source plants in an enclosed facility during the micropropagation process and to destroy them upon its completion.

WSR 12-21-135
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed October 24, 2012, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-14-004.

Title of Rule and Other Identifying Information: WAC 392-121-107 through 392-121-187, general apportionment enrollment.

Hearing Location(s): Office of the Superintendent of Public Instruction, Old Capitol Building, Wanamaker [Wanamaker] Conference Room, 600 South Washington, Olympia, WA, on November 28, 2012, at 10:00 a.m.

Date of Intended Adoption: November 28, 2012.

Submit Written Comments to: Becky McLean, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, e-mail becky.mclean@k12.wa.us, fax (360) 664-3631, by November 27, 2012.

Assistance for Persons with Disabilities: Contact Wanda Griffin by November 25, 2012, TTY (360) 664-3631 or (360) 725-6132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 392-121-107 through 392-121-187 require updating to:

- Limit the FTE that can be claimed for running start students to 1.20 FTE,
- Address the new June enrollment reporting requirement,
- Change the noon intermission to meal intermission to clarify this enrollment exclusion,
- Add city and county jails to list of institutional educational entities,
- Remove the requirement for National Guard program participation be limited to school districts only, and
- Allow the claiming of expelled students who resume enrollment.

Reasons Supporting Proposal: WAC 392-121-107 through 392-121-187 require updating to address changes

resulting from recently passed legislative bills and revising the language to address current practice.

Most of these updates were adopted through the CR-103E emergency rule process which was filed on June 21, 2012. The last two items are new changes that were not part of the June CR-103E.

Statutory Authority for Adoption: RCW 28A.150.305.

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

Name of Proponent: Office of superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Becky McLean, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6306; Implementation: T. J. Kelly, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6181; and Enforcement: JoLynn Berge, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6301.

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.

October 24, 2012

Randy Dorn
State Superintendent

AMENDATORY SECTION (Amending WSR 09-06-038, filed 2/25/09, effective 3/28/09)

WAC 392-121-107 Definition—Course of study. As used in this chapter, "course of study" means those activities for which students enrolled pursuant to chapters 180-16, 180-51, 392-169, 392-134, and 392-410 WAC may be counted as enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Course of study includes:

(a) Instruction - Teaching/learning experiences conducted by school district staff as directed by the administration and the board of directors of the school district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time for meals.

(b) Alternative learning experience - Alternative learning experience provided by the school district in conformance with WAC 392-121-182.

(c) Instruction provided by a contractor - Instruction provided by a contractor in conformance with WAC 392-121-188.

(d) National guard - Participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW 28A.300.165 and WAC 392-410-320. ((Such participation may be counted as a course of study only by the school district which the individual last attended.))

(e) Ancillary service - Any cocurricular service or activity, any health care service or activity, and any other services or activities, for or in which enrolled students are served by appropriate school district staff. The term shall include, but not be limited to, counseling, psychological services, testing,

remedial instruction, speech and hearing therapy, health care services, and if such service is provided by the district, certificated contact time pursuant to RCW 28A.225.010 (4)(a) with students who are in a home-based instruction program. The term shall exclude all extracurricular activities and all other courses of study defined in this section. In conformance with WAC 392-134-025, school districts report the actual number of student contact hours of ancillary service for part-time, private school, and home-based students to the superintendent of public instruction.

(f) Work based learning - Training provided pursuant to WAC 392-410-315 and reported as provided in WAC 392-121-124.

(g) Running start - Attendance at an institution of higher education pursuant to RCW 28A.600.300 through 28A.600.400, chapter 392-169 WAC.

(h) Transition school - Participation in the University of Washington's transition school and early entrance program pursuant to RCW 28A.185.040, and chapter 392-120 WAC. Such participation shall be reported by the University of Washington and shall not be reported by a school district.

(i) Technical college direct funding - Enrollment at a technical college pursuant to RCW 28A.150.275 and WAC 392-121-187. Such participation shall be reported by the technical college and shall not be reported by a school district unless the technical college and the school district agree to have the school district report such enrollment.

(2) Course of study does not include:

(a) Home-based instruction pursuant to RCW 28A.225.-010(4): Education programs provided by a parent which do not meet the requirements of WAC 392-121-182 cannot be claimed for state funding;

(b) Private school instruction pursuant to chapter 28A.195 RCW;

(c) Adult education as defined in RCW 28B.50.030(12);

(d) Instruction provided to students who do not reside in Washington state (RCW 28A.225.260);

(e) Enrollment in state institutions, i.e., state operated group homes, county juvenile detention centers, state institutions for juvenile delinquents, county and city adult jails, and state residential habilitation centers;

(f) Instruction preparing a student for the general education development (GED) test if such instruction generates state or federal moneys for adult education;

(g) Enrollment in education centers except as provided under contract with a school district pursuant to RCW 28A.150.305 and WAC 392-121-188;

(h) Enrollment in the Washington state school for the deaf and the Washington state school for the blind;

(i) Extracurricular activities including but not limited to before and after school activities such as classes, sports and other activities offered outside the regular curriculum or for which credit is not earned; or

(j) Attendance at universities, colleges, community colleges, or technical colleges of students not earning high school credit.

AMENDATORY SECTION (Amending WSR 10-12-037, filed 5/25/10, effective 6/25/10)

WAC 392-121-108 Definition—Enrollment exclusions. A person who qualifies for any of the exclusions set forth in this section shall not be counted as an enrolled student pursuant to WAC 392-121-106.

(1) Absences - Except as provided in (a) and (b) of this subsection, a student whose consecutive days of absence from school exceed twenty school days, or a part-time student that has not attended school at least once within a time period consisting of twenty consecutive school days, shall not be counted as an enrolled student until attendance is resumed. School days are defined as the regularly scheduled instructional days for the general population of the school or district the student is enrolled in, regardless of the student's individualized schedule.

(a) If there is a written agreement between the appropriate school official and a student's parent or guardian pursuant to RCW 28A.225.010 that the student's temporary absence is not deemed to cause a serious adverse effect upon the student's educational progress, the absent student may be counted as an enrolled student for up to two monthly enrollment count dates as specified in WAC 392-121-122.

(b) A student receiving home and/or hospital service pursuant to WAC 392-172A-02100 shall be counted as an enrolled student as provided in WAC 392-122-145.

(2) Dropouts - A student for whom the school district has received notification of dropping out of school by the student or the student's parent or guardian shall not be counted as an enrolled student until attendance is resumed.

(3) Transfers - A student who has transferred to another public or private school and for whom the school district has received notification of transfer from the school to which the student has transferred, from the student, or from the student's parent or guardian shall not be counted as an enrolled student unless the student reenrolls in the school district.

(4) Suspensions - A student who has been suspended from school pursuant to WAC 392-400-260, when the conditions of the suspension will cause the student to lose academic grades or credit, shall not be counted as an enrolled student until attendance is resumed.

(5) Expulsions - A student who has been expelled from all school subjects or classes by the school district pursuant to WAC 392-400-275 or 392-400-295 shall not be counted as an enrolled student until such time as enrollment in a district program has resumed; a student who has been partially expelled, such as from a single school subject or class, by the school district pursuant to WAC 392-400-275 or 392-400-295 may be considered a part-time enrolled student.

(6) Graduates - A student who has met the high school graduation requirements of chapter 180-51 WAC by the beginning of the school year.

(7) Tuition - A student paying tuition including, but not limited to, students on an F-1 visa or students enrolled in a tuition-based summer school program.

(8) An institution student who is claimed as a 1.0 FTE by any institution as an enrolled student eligible for state institutional education support pursuant to chapter 392-122 WAC where the institution's count date occurs prior to the school district count date for the month. Where the count dates occur

on the same date, the institution shall have priority for counting the student.

AMENDATORY SECTION (Amending Order 97-06, filed 10/27/97, effective 11/27/97)

WAC 392-121-119 Definition—Enrollment count dates. As used in this chapter, "enrollment count dates" means the fourth school day of September and the first school day of each of the ~~((eight))~~ nine subsequent months of the school year for all school districts including districts which commence basic education programs prior to September 1st. Exceptions are limited to the following:

(1) In school districts where not every school or grade follows the same calendar of school days, the calendar of an individual school or an entire grade level within a school may determine the monthly enrollment count date for that school or grade level within the school.

(2) The nine count dates for running start enrollment shall be the first school day of each month of October through June.

AMENDATORY SECTION (Amending WSR 08-04-009, filed 1/24/08, effective 2/24/08)

WAC 392-121-122 Definition—Full-time equivalent student. As used in this chapter, "full-time equivalent student" means each enrolled student in the school district as of one of the enrollment count dates for at least the minimum number of hours set forth in subsection (1) of this section, inclusive of class periods and normal class change passing time, but exclusive of ~~((noon))~~ meal intermissions: Provided, That each hour counted shall contain at least 50 minutes of instruction or supervised study provided by appropriate instructional staff. The purpose of recognizing "50 minute hours" is to provide flexibility to school districts which utilize block periods of instruction so long as students are ultimately under the jurisdiction of school staff for the equivalent of 60 minute hours: Provided further, That the hours set forth below shall be construed as annual average hours for the purposes of compliance with this chapter.

(1) The minimum hours for each grade are as follows:

(a) Kindergarten: 20 hours each week, or 4 hours (240 minutes) for each scheduled school day;

(b) Primary (grades 1 through 3): 20 hours each week, or 4 hours (240 minutes) each scheduled school day;

(c) Elementary (grades 4 through 6): 25 hours each week, or 5 hours (300 minutes) each scheduled school day;

(d) Secondary (grades 7 through 12): 25 hours each week, or 5 hours (300 minutes) each scheduled school day.

(2) Except as limited by WAC 392-121-136, a student enrolled for less than the minimum hours shown in subsection (1) of this section shall be counted as a partial full-time equivalent student equal to the student's hours of enrollment divided by the minimum hours for the student's grade level set forth in subsection (1) of this section.

(3) The full-time equivalent of a student's running start enrollment pursuant to RCW 28A.600.300 through 28A.600.400 shall be determined pursuant to chapter 392-169 WAC. If a running start student is enrolled both in high school courses provided by the school district and in running

start courses provided by the college, the high school full-time equivalent and the running start full-time equivalent shall be determined separately.

(4) The full-time equivalent of University of Washington transition school students shall be determined pursuant to chapter 392-120 WAC.

(5) The full-time equivalent of a student's alternative learning experience shall be determined pursuant to WAC 392-121-182.

AMENDATORY SECTION (Amending WSR 09-01-173, filed 12/23/08, effective 1/23/09)

WAC 392-121-123 Nonstandard school year programs. A student participating in a program of education occurring during ~~((June, July, or August))~~ the nonstandard school year~~((s))~~ on a tuition-free basis may be claimed for state funding to the extent that the student was not claimed as a 1.0 AAFTE during the regular school year (September through ~~((May))~~ June), subject to the following:

(1) Eligible student FTE in a nonstandard school year program shall be claimed based upon the following:

(a) Enrolled hours based upon the standards in WAC 392-121-122 or 392-121-182.

(b) Credit based for student enrolled in a college program under WAC 392-121-188.

(c) A student enrolled in transition school or a running start program is not eligible for nonstandard school year funding.

(2) A district shall make month by month evaluation of the student to determine if the following conditions were met during the regular school year:

(a) The student was not home schooled or enrolled in a private school.

(b) The student was not claimed as a 1.0 FTE in a regular or institution education program.

(3) For each month in which the conditions of subsection (2) of this section are met, the district shall determine the amount of student FTE claimed for the student. To the extent the enrollment claimed is less than 1.0 FTE for each month, the school district may claim nonstandard school year FTE based upon the student enrollment in the nonstandard school year school program.

AMENDATORY SECTION (Amending WSR 07-23-026, filed 11/9/07, effective 12/10/07)

WAC 392-121-124 Full-time equivalent enrollment for work based learning. For work based learning provided pursuant to WAC 392-410-315, a student's full-time equivalent shall be determined as follows:

(1) For cooperative work based learning experience, in accordance with WAC 392-410-315 (1)(g), divide the student's hours of work experience for the month by two hundred; for example: Forty hours of cooperative work experience equals two tenths of a full-time equivalent ($40 \div 200 = 0.20$). For instructional work based learning experience, in accordance with WAC 392-410-315 (1)(f) and 296-125-043(4), divide the student's enrolled hours of work experience for the month by one hundred; for example: Twenty

hours of instructional work experience equals two tenths of a full-time equivalent ($20 \div 100 = 0.20$). Enrollment exclusions in WAC 392-121-108 apply to instructional work based learning enrolled hours.

(2) Estimated or scheduled hours of cooperative work based learning experience may be used in determining a student's full-time equivalent on an enrollment count date: Provided, That the combined monthly hours reported for the school year shall not exceed the student's actual hours of cooperative work based learning experience documented on the student's work records and maintained by the school district for audit purposes. ~~((Instructional and cooperative work based learning experience during June of the regular school year shall be included in the May enrollment count.))~~

(3) Work based learning provided as part of a state-approved vocational education program qualifies for enhanced vocational funding and may be included in determining a student's vocational full-time equivalent enrollment.

(4) No more than three hundred sixty hours of cooperative work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript. No more than one hundred eighty hours of instructional work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript.

(5) Funding may be claimed only for work based learning hours that occur after the work based learning plan, work based agreement, program orientation and new employee orientation, as defined in WAC 392-410-315, are completed.

AMENDATORY SECTION (Amending WSR 09-03-052, filed 1/13/09, effective 2/13/09)

WAC 392-121-133 Definition—Annual average full-time equivalent students. As used in this chapter, "annual average full-time equivalent students" means the sum of the following:

(1) The annual total of full-time equivalent students enrolled on the ~~((nine))~~ ten enrollment count dates of the school year and reported to the superintendent of public instruction pursuant to WAC 392-121-122 divided by ~~((nine))~~ ten;

(2) Annual hours of ancillary service to part-time, private school, and home-based students reported pursuant to WAC 392-121-107 divided by 720 for grades kindergarten through third and 900 for grades fourth through twelfth; and

(3) Annual hours of eligible enrollment in nonstandard school year programs pursuant to WAC 392-121-123 divided by 720 for grades kindergarten through third and 900 for grades fourth through twelfth.

AMENDATORY SECTION (Amending WSR 10-13-020, filed 6/4/10, effective 7/5/10)

WAC 392-121-136 Limitation on enrollment counts. Enrollment counts pursuant to WAC 392-121-106 through 392-121-133 are subject to the following limitations:

(1) Except as provided in (a), (b) and (c) of this subsection, no student, including a student enrolled in more than one school district, shall be counted as more than one full-time

equivalent student on any count date or more than one annual average full-time equivalent student in any school year.

(a) School districts operating approved vocational skills center programs during the summer vacation months may claim additional full-time equivalent students based upon actual enrollment in such vocational skills centers on the aggregate of enrolled hours based upon the fourth day of each summer session. Each district operating an approved vocational skills center program shall be entitled to claim one annual average full-time equivalent student for each 900 hours of planned student enrollment for the summer term(s) subject to the limitation in (c) of this subsection.

(b) Enrollment count limitations apply separately to a student's running start, skills center and high school enrollments and is limited to an overall maximum ~~((2.0))~~ 1.8 FTE.

(c) Subject to (b) of this subsection, a student enrolled in a skill center program during the regular school year may be claimed for up to a combined 1.6 full-time equivalent student. A student enrolled in running start during the regular school year may be claimed for up to a combined 1.2 full-time equivalent student. A student enrolled in high school and skills center for more than 1.0 FTE, can be claimed for a 0.2 running start FTE.

Each student may be claimed for a maximum of a 1.0 full-time equivalent for the skills center enrollment, a maximum of a 1.0 full-time equivalent for running start and a maximum of a 1.0 full-time equivalent for the student's high school enrollment subject to the overall ~~((4.6))~~ combined FTE ((maximum)) limitation in (b) of this subsection.

(2) Running start enrollment counts are limited as provided in chapter 392-169 WAC and specifically as provided in WAC 392-169-060.

(3) The full-time equivalent reported for a five year old preschool student with a disability is limited as provided in WAC 392-121-137.

(4) No kindergarten student, including a student enrolled in more than one school district, shall be counted as more than one-half of an annual average full-time equivalent student in any school year.

(5) A student reported as part-time on Form SPI E-672 shall not be reported by a school district for more than part-time basic education funding on that enrollment count date and the total enrollment reported by one or more school districts for basic education and on Form SPI E-672 must not exceed one full-time equivalent.

(6) Districts providing an approved state-funded full-day kindergarten program as provided in chapter 28A.150 RCW (from E2SSB 5841) may claim up to an additional 0.50 FTE based upon student enrolled hours in excess of the 0.50 FTE provided under subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 09-06-038, filed 2/25/09, effective 3/28/09)

WAC 392-121-187 Technical college direct-funded enrollment. Enrollment in a technical college pursuant to an interlocal agreement with a school district as provided in RCW 28B.50.533 may be counted as course of study generating state moneys payable directly to the technical college as provided in this section.

(1) The technical college shall submit a written request to the superintendent of public instruction and for each school district whose students are to be claimed by the college shall provide a copy of the interlocal agreement signed by the school district superintendent and the technical college president or authorized officials of the school district and college.

(2) The technical college shall report enrolled students monthly (~~(((October)))~~ September through June) to the superintendent of public instruction pursuant to this chapter and instructions provided by the superintendent. A separate report shall be submitted for each school district whose students are reported. Reports of students eligible for state basic education support shall show the total number of students served and total nonvocational and vocational FTE students on the monthly count date. Reports shall also show the name of each student, hours of enrollment per week on the monthly count date, and the nonvocational and vocational full-time equivalent reported for the student on the count date. Technical colleges claiming direct state handicapped funding under the interlocal agreement shall also report the number of enrolled handicapped students by handicapping category on the count dates of October through (~~(((May)))~~ June pursuant to WAC 392-122-160 and chapter 392-172A WAC.

(3) The technical college shall report monthly to each school district whose students are served pursuant to this section. The report shall include at a minimum the data reported to the superintendent of public instruction pursuant to subsection (2) of this section.

(4) The technical college shall report only students who:

(a) Were under twenty-one years of age at the beginning of the school year;

(b) Are enrolled tuition-free;

(c) Are enrolled in a school district with which the technical college has a signed interlocal agreement on file with the superintendent of public instruction pursuant to subsection (1) of this section;

(d) Are enrolled in the school district for the purpose of earning a high school diploma or certificate; and

(e) Have actually participated in instructional activity at the technical college during the current school year.

(5) Enrollments claimed for state basic education funding by the technical college:

(a) Shall be for courses for which the student is earning high school graduation credit through the school district or the technical college; and

(b) Shall not include:

(i) Enrollment which is claimed by the school district for state funding; or

(ii) Enrollment which generates state or federal moneys for higher education, adult education, or job training for the technical college.

(6) Full-time equivalent students reported by the technical college for state basic education funding shall be determined pursuant to WAC 392-121-106 through 392-121-183 except that the enrollment count dates shall be for the months of (~~(((October)))~~ September through June. If a student is enrolled in courses provided by the school district as well as courses provided by the technical college, the combined full-

time equivalents reported by the school district and the technical college are limited by WAC 392-121-136.

(7) The superintendent of public instruction shall make quarterly payments to the technical college as follows:

(a) Basic education allocations shall be determined pursuant to chapter 392-121 WAC based on average enrollments reported by the technical college for each school district times the average allocation per full-time equivalent high school student of the school district. Provided, That allocations for students enrolled in school districts with no more than two high schools with enrollments of less than three hundred annual average full-time equivalent students shall be at the incremental rate generated by students in excess of sixty annual average full-time equivalent students. Allocations for nonvocational and vocational full-time equivalent enrollments shall be calculated separately.

(b) Handicapped allocations shall be determined pursuant to WAC 392-122-100 through 392-122-165 based on average handicapped enrollments and the school district's average allocation per handicapped student in each handicapping category.

(c) Quarterly payments shall provide the following percentages of the annual allocation:

December	30%
March	30%
June	20%
August	20%

WSR 12-21-136

PROPOSED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2012-17—Filed October 24, 2012, 10:35 a.m.]

Supplemental Notice to WSR 12-19-101.

Preproposal statement of inquiry was filed as WSR 12-12-064.

Title of Rule and Other Identifying Information: Essential health benefits supplementation, scope and limitation requirements, and filing requirements.

Hearing Location(s): Training Room, T-120, 5000 Capitol Way South, Tumwater, WA, on December 14, 2012, at 10:00 a.m.

Date of Intended Adoption: December 17, 2012.

Submit Written Comments to: Meg L. Jones, P.O. Box 40258, Olympia, WA 98504, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109, by December 13, 2012.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by December 10, 2012, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will establish new sections in Subchapter C of chapter 284-43 WAC (health benefits), explaining the requirements associated with carrier inclusion of the essential health bene-

fits package in nongrandfathered individual and small group plans for plans with coverage beginning January 1, 2014.

Reasons Supporting Proposal: RCW 48.43.715 directs the commissioner to designate by rule the small group plan with the largest enrollment as the benchmark plan for purposes of defining the essential health benefits package for nongrandfathered individual and small group health benefit plans issued on or after January 1, 2014. The same legislation requires supplementation, and adjustment or establishment of scope and limitation requirements by the commissioner in order to ensure meaningful benefits and prevent bias based on health selection. Carriers require specific guidance in order to prepare plan filings for the commissioner's review prior to health benefit exchange deadlines, and to ensure time to satisfy plan replacement requirements.

Statutory Authority for Adoption: RCW 48.02.060, 48.21.241, 48.21.320, 48.43.715, 48.44.460, 48.44.341, 48.46.291, 48.46.530.

Statute Being Implemented: RCW 48.43.715.

Rule is necessary because of federal law, P.L. 111-148, §1302.

Name of Proponent: Office of the insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Meg Jones, P.O. Box 40258, Olympia, WA 98504, (360) 725-7170; Implementation: Beth Berendt, P.O. Box 40258, Olympia, WA 98504, (360) 725-7117; and Enforcement: Carol Sureau, P.O. Box 40258, Olympia, WA 98504, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The entities that must comply with the proposed rule are not small businesses, pursuant to chapter 19.85 RCW.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Meg Jones, P.O. Box 40258, Olympia, WA 98504, phone (360) 725-7170, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

October 24, 2012

Mike Kreidler

Insurance Commissioner

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 12-22 issue of the Register.

WSR 12-21-137
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed October 24, 2012, 10:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-16-029.

Title of Rule and Other Identifying Information: Independent vehicle dealer education, chapter 308-66 WAC, Independent vehicle dealer education, to be added as a new section.

Hearing Location(s): Department of Licensing (DOL), 405 Black Lake Boulevard, Building #2, Conference Room

#2105, Olympia, WA 98502, on November 28, 2012, at 2:00 p.m.

Date of Intended Adoption: November 29, 2012.

Submit Written Comments to: Kim Zuchlewski, P.O. Box 9039, Olympia, WA 98507, e-mail kzuchlewsk@dol.wa.gov, fax (360) 586-6703, by November 21, 2012.

Assistance for Persons with Disabilities: Contact Lewis Dennie by November 21, 2012, TTY (360) 664-0116 or (360) 664-6458.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Add new set of rules, chapter 308-66 WAC, to clarify RCW 46.70.079 where currently no rule exists. The agency and stakeholders have established minimum requirements in areas such as education provider experience. The department's authority over development, maintenance and monitoring of curriculum and testing, and the management of multiple education providers. The need for rule exists due to more than one organization that may qualify to provide dealer training.

Reasons Supporting Proposal: Statute lacks clarity and the rule clarifies DOL's authority over education providers and curriculum content.

Statutory Authority for Adoption: RCW 46.70.160.

Statute Being Implemented: RCW 46.70.079.

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

Name of Proponent: DOL, business and professions division, dealer and manufacturer services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Walker, 405 Black Lake Boulevard S.W., Olympia, WA 98502, (360) 664-6451.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule will not impose any minor costs on the affected businesses per RCW 19.85.030 (1)(a).

A cost-benefit analysis is not required under RCW 34.05.328. DOL is exempt from the provisions of this law. DOL is not a named agency in RCW 34.05.328 (5)(a)(i).

October 24, 2012

Damon Monroe

Rules Coordinator

NEW SECTION

WAC 308-66-270 Vehicle industry organization—
Definition. The term "vehicle industry organization" means a dues-based business representing the interests of Washington state vehicle dealers that is licensed or registered to conduct business in Washington.

NEW SECTION

WAC 308-66-280 Course and education provider approval required. (1) Education providers must:

(a) Meet the definition of a vehicle industry organization;

(b) Submit a vehicle dealer course curriculum to the department for approval; and

(c) Have the course approved by the department prior to the date the course is offered for education credit.

(2) The director or designee will approve, conditionally approve or disapprove the course content and the education provider based upon criteria established within this chapter. The department will notify the education provider, in writing, of the department's decision and determining factors.

(3) The approval of the education provider and the course will expire three years after the effective date of approval by the department. To renew for an additional three year period, the provider must submit course curriculum and materials as outlined in this chapter.

NEW SECTION

WAC 308-66-290 General requirements for course approval. (1) The application for course approval must be submitted by an education provider that meets the definition of a vehicle industry organization.

(2) The course curriculum must provide for a minimum of either eight hours of initial classroom instruction or five hours of yearly update education, or both.

(3) The curriculum must include a comprehensive test, approved by the department, at the end of the initial eight hour instruction which covers the minimum course curriculum elements.

(4) The minimum course curriculum elements are related to vehicle industry practices in the following areas:

- (a) Types of vehicle dealer licenses;
- (b) Completing the vehicle dealer application;
- (c) Regulatory agencies involved in the vehicle dealer industry;
- (d) Federal Trade Commission (FTC) regulations;
- (e) Unlawful vehicle dealer activities;
- (f) Motor vehicle advertising laws;
- (g) Vehicle titling and registration, and use of the electronic vehicle permitting system;
- (h) Vehicle warranties;
- (i) Standard industry forms;
- (j) Trust accounts;
- (k) Use of vehicle dealer plates;
- (l) Selling vehicles on consignment;
- (m) Vehicle financing.

(5) The development of the course curriculum and the test will be a collaborative effort subject to periodic review by both the department and the education provider.

(6) The education provider is responsible for ensuring the curriculum reflects accurate, complete and current information regarding federal and state laws, industry standards and best practices. Changes or updates must occur within thirty days after the effective date of a change in federal, state, or local statutes or rules.

(7) The education provider is responsible for furnishing students with the instruction materials for the approved courses.

(8) The education provider must issue a certificate to the student upon successful completion of the course.

NEW SECTION

WAC 308-66-300 Disciplinary action—Procedures—Investigation. (1) The department has the authority on its own initiative or upon complaint to investigate or audit

any course to determine compliance with chapter 46.70 RCW and with the rules and regulations of this chapter.

(2) Complaints from students or citizens concerning approved courses must be made in writing to the department and contain the following information:

- (a) Complainant's name, address, and telephone number;
- (b) Education provider name, address, and telephone number;
- (c) Instructor name(s);
- (d) Nature of the complaint and pertinent information supporting the complaint;
- (e) An explanation of what efforts, if any, were taken to resolve the problem with the education provider; and
- (f) Copies of pertinent documents, publications, and advertisements.

NEW SECTION

WAC 308-66-310 Grounds for denial or withdrawal of education provider or course material. (1) Course or education provider approval may be denied or withdrawn if the education provider:

- (a) Has had any disciplinary action taken against his or her license in this or any other jurisdiction;
- (b) Falsified any student records or classroom hour certificates;
- (c) Falsified any application or any other information required to be submitted to the department;
- (d) Attempted in any manner to either impart to any student candidate, the content of or answer to any test question(s), or both;
- (e) Violated any provision in chapter 46.70 RCW or the rules promulgated thereunder;
- (f) Failed to cooperate with the department in any investigation or hearing;
- (g) Has been convicted of a crime within the preceding ten years;
- (h) Violated provisions of any local, state, or federal antidiscrimination law;
- (i) Continued to teach or offer any vehicle industry subject matter whereby the interests of the public are endangered, after the director, by order in writing, stated objections to the continuing subject matter;
- (j) Offered, sold, or awarded any classroom hours without requiring the student to successfully complete the hours for which the course was approved;
- (k) Accepted registration fees but did not supply the service or failed to refund the fees, in accordance with the education provider's published refund policy, or both;
- (l) Represented in any manner that the education provider is associated with a college or university unless it meets the standards and qualifications of, and has been approved by, the state agency having jurisdiction;
- (m) Represented that an education provider is recommended or endorsed by the state of Washington or by the department, provided that a school authorized to provide education under this chapter may state: "This school is approved under chapter 46.70 RCW;"

(n) Advertised, published, printed, or distributed false or misleading information regarding the education provider or course material;

(o) Advertised the availability of credit in any manner without affixing the educator name as approved by the department;

(p) Failed to teach a course consistent with the approved course content or curriculum;

(q) Failed to update curriculum for a change in statute or rules within thirty days of the effective date.

(2) The department also has the authority to withdraw a course approval or education provider approval if it was approved through the mistake or inadvertence of the director.

NEW SECTION

WAC 308-66-320 Hearing procedure. Upon notice of education provider or course denial, conditional approval, disapproval or withdrawal of course approval, the provider or proposed provider is entitled to a hearing conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(1) The provider or proposed provider can exercise the right to a hearing under this section by requesting, in writing, a hearing within twenty days after receipt of notice.

(2) Appeal of the hearing outcome would be through a judicial review under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION

WAC 308-66-330 Record retention. (1) Each education provider must:

(a) Maintain each student's record and each edition of any education related publication for a minimum of three years; and

(b) Provide a copy of a student's record to the student upon request.

(2) Student records must include:

(a) Full name, address, telephone number, and e-mail address (optional) of the student;

(b) Date of attendance and the date of registration agreement;

(c) Date the course was completed and the test results.

WSR 12-21-138

PROPOSED RULES

DEPARTMENT OF COMMERCE

[Filed October 24, 2012, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-05-107.

Title of Rule and Other Identifying Information: Greenhouse gas emission performance standard, the greenhouse gas emission performance standard is the average greenhouse gas emission rate of new combined-cycle natural gas thermal electric generation turbines commercially available and

offered for sale by manufacturers and purchased in the United States.

Hearing Location(s): Seattle Public Library, 1000 Fourth Avenue, Seattle, WA 98104-1109, on November 28, 2012, at 6:00 p.m.

Date of Intended Adoption: December 20, 2012.

Submit Written Comments to: Carolee Sharp, P.O. Box 42525, Olympia, WA 98504-2525, e-mail carolee.sharp@commerce.wa.gov, fax (360) 725-3118, by 8:00 a.m., December 3, 2012.

Assistance for Persons with Disabilities: Contact Carolee Sharp by November 27, 2012, TTY (360) 586-0772 or (360) 725-3118.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Establish the state greenhouse gas emission performance standard for utility baseload electric generation as nine hundred and eighty pounds per megawatt-hour, the average greenhouse gas emission rate as directed by RCW 80.80.050.

Reasons Supporting Proposal: This rule making is required by RCW 80.80.050.

Statutory Authority for Adoption: RCW 80.80.050.

Statute Being Implemented: RCW 80.80.050.

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 Washington state department of commerce finds the average greenhouse gas emission performance standard to be nine hundred and eighty pounds per megawatt-hour. The Washington state department of ecology will be responsible for the implementation and enforcement of the standard.

The survey required by RCW 80.80.050 is described in the legislative report "Survey of Combined Cycle Combustion Turbine Greenhouse Gas Emission Rates," to be submitted to the legislature by November 7, 2012. This legislative report and commerce's "Reliability and Cost Consideration" will be made available on commerce's web site (<http://www.commerce.wa.gov>) by November 9, 2012, and hard copies may be obtained by contacting Carolee Sharp at carolee.sharp@commerce.wa.gov, (360) 725-3118, or P.O. Box 42525, Olympia, WA 98504-2525.

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

Name of Agency Personnel Responsible for Drafting: Greg Nothstein, Department of Commerce, 1011 Plum Street S.E., Olympia, WA 98504-2525, (360) 725-3112; Implementation and Enforcement: Washington State Department of Ecology, 300 Desmond Drive S.E., Lacey, WA 98503, (360) 407-6000.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required for this rule making as none of the affected entities are small businesses. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Subsection (5)(a)(i) of RCW 34.05.328 does not

require commerce to provide a cost-benefit analysis. Not applicable.

October 24, 2012
Nick Demerice
Director of
Government Affairs

Chapter 194-26 WAC

GREENHOUSE GAS EMISSIONS PERFORMANCE STANDARD

NEW SECTION

WAC 194-26-010 Authority. This chapter is promulgated pursuant to the authority granted in RCW 80.80.040, requiring the department of commerce to adopt the average available greenhouse gases emissions output as determined under RCW 80.80.050 as the greenhouse gas emissions performance standard for all baseload electric generation for which electric utilities enter into long-term financial commitments.

NEW SECTION

WAC 194-26-020 Average available greenhouse gas emissions output. The energy policy division of the department of commerce has surveyed new combined-cycle natural gas thermal electric generation turbines commercially available and offered for sale by manufacturers and purchased in the United States, and finds the average rate of emissions of greenhouse gases for these turbines to be nine hundred and eighty pounds per megawatt-hour.

**WSR 12-21-140
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket PG-120345—Filed October 24, 2012, 11:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-07-086.

Title of Rule and Other Identifying Information: Chapter 480-93 WAC, Gas companies—Safety.

Hearing Location(s): Commission's Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on December 19, 2012, at 9:30 a.m.

Date of Intended Adoption: December 19, 2012.

Submit Written Comments to: Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@utc.wa.gov, fax (360) 586-1150, by November 26, 2012. Please include Docket PG-120345 in your communication.

Assistance for Persons with Disabilities: Contact Debbie Aguilar by December 5, 2012, TTY (360) 586-8203 or (360) 664-1132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The 2011 legislature amended the underground utilities law, chapter 19.122 RCW. These changes take effect on January 1, 2013. This new law, assigned to the Washington utilities and transportation commission (commission), affects the commission's authority to enforce the underground utilities law as it relates to pipelines. The commission initiated this rule making to require gas pipeline companies to report additional information about damage to their facilities caused by excavators that have violated the underground utilities law, and to provide to violators information about their rights under the revised law.

Reasons Supporting Proposal: Proposed revisions will provide sufficient supplemental reporting and evidentiary records and documentation needed by the commission to sustain an action to enforce violations of chapter 19.122 RCW.

Statutory Authority for Adoption: RCW 80.01.040(4), 81.01.010, 81.04.160, 81.88.040, 81.88.065, and sections 1, 2, and 5, chapter 142, Laws of 2007.

Statute Being Implemented: Chapter 19.122 RCW.

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

Name of Proponent: Washington utilities and transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: David D. Lykken, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1219; Implementation and Enforcement: David W. Danner, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1208.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will not result in or impose more than minor costs. Because there will not be more than minor increase in costs resulting from the proposed rule changes, a small business economic impact statement is not required under RCW 19.85.030(1).

A cost-benefit analysis is not required under RCW 34.05.328. The commission is not an agency to which RCW 34.05.328 applies. The proposed rules are not significant legislative rules of the sort referenced in RCW 34.05.328(5).

October 24, 2012

David W. Danner
Executive Director
and Secretary

AMENDATORY SECTION (Amending Docket PG-070975, General Order R-549, filed 5/30/08, effective 6/30/08)

WAC 480-93-200 Reporting requirements. (1) Each gas pipeline company must give notice to the commission by telephone using the emergency notification line (see WAC 480-93-005(8)) within two hours of discovering an incident or hazardous condition arising out of its operations that results in:

- (a) A fatality or personal injury requiring hospitalization;
- (b) Property damage valued at more than fifty thousand dollars;
- (c) The evacuation of a building, or a high occupancy structure or area;
- (d) The unintentional ignition of gas;

(e) The unscheduled interruption of service furnished by any gas pipeline company to twenty-five or more distribution customers;

(f) A pipeline or system pressure exceeding the MAOP plus ten percent or the maximum pressure allowed by proximity considerations outlined in WAC 480-93-020; or

(g) A significant occurrence, in the judgment of the gas pipeline company, even though it does not meet the criteria of (a) through (g) of this subsection.

(2) Each gas pipeline company must give notice to the commission by telephone using the emergency notification line (see WAC 480-93-005(8)) within twenty-four hours of each incident or hazardous condition arising out of its operations that results in:

(a) The uncontrolled release of gas for more than two hours;

(b) The taking of a high pressure supply or transmission pipeline or a major distribution supply gas pipeline out of service;

(c) A gas pipeline operating at low pressure dropping below the safe operating conditions of attached appliances and gas equipment; or

(d) A gas pipeline pressure exceeding the MAOP.

(3) Routine or planned maintenance and operational activities of the gas pipeline company that result in operator-controlled plant and equipment shut downs, reduction in system pressures, flaring or venting of gas, and normal leak repairs are not reportable items under this section.

(4) Each gas pipeline company must provide to the commission a written report within thirty days of the initial telephonic report required under subsections (1) and (2) of this section. At a minimum, the written reports must include the following:

(a) Name(s) and address(es) of any person or persons injured or killed, or whose property was damaged;

(b) The extent of such injuries and damage;

(c) A description of the incident or hazardous condition including the date, time, and place, and reason why the incident occurred. If more than one reportable condition arises from a single incident, each must be included in the report;

(d) A description of the gas pipeline involved in the incident or hazardous condition, the system operating pressure at that time, and the MAOP of the facilities involved;

(e) The date and time the gas pipeline company was first notified of the incident;

(f) The date and time the gas pipeline company's first responders arrived on-site;

(g) The date and time the gas pipeline was made safe;

(h) The date, time, and type of any temporary or permanent repair that was made;

(i) The cost of the incident to the gas pipeline company;

(j) Line type;

(k) City and county of incident; and

(l) Any other information deemed necessary by the commission.

(5) Each gas pipeline company must submit a supplemental report if required information becomes available after the thirty-day report is submitted.

(6) Each gas pipeline company must provide to the commission a copy of each failure analysis report completed or

received by the gas pipeline company, concerning any incident or hazardous condition due to construction defects or material failure within five days of completion or receipt of such report.

(7) In the event of damage to a gas pipeline, each gas pipeline company must provide to the commission the following information using either the commission's web-based damage reporting tool or its successor, or the damage reporting form located on the commission's web site:

(a) The reporting requirements set forth in RCW 19.122.053 (3)(a) through (n);

(b) If the damage is believed by the company to be the result of an excavation conducted without a facilities locate first being completed, the gas pipeline company must also report the name, address, and phone number of the person or entity that the company has reason to believe may have caused the damage. The company must include this information in the comment section of the web-based damage reporting tool form or sent to the commission separately. If the company chooses to send the information separately, it must include sufficient information to allow the commission to link the name of the party believed to have caused the damage with the damage event reported through the damage reporting tool.

(c) Each gas pipeline company must retain all damage and damage claim records it creates related to damage events, including photographs and documentation supporting the conclusion that a facilities locate was not completed, reported under subsection (b) of this section, for a period of two years and make those records available to the commission upon request.

(8) Each gas pipeline company must provide, to an excavator who damages a gas pipeline facility, the following information set forth in chapter 19.122 RCW:

(a) Notification requirements for excavators under RCW 19.122.050(1);

(b) A description of the excavator's responsibilities for reporting damages under RCW 19.122.053; and

(c) Information concerning the safety committee referenced under RCW 19.122.130, including committee contact information, and the process for filing a complaint with the safety committee.

(9) Each gas pipeline company must report to the commission the details of each instance of the following when the company or its contractor observes or becomes aware of either of these events:

(a) An excavator digs within thirty-five feet of a transmission pipeline, as defined by RCW 19.122.020(26) without first obtaining a locate; or

(b) Someone maliciously damages or removes marks indicating the location or presence of gas pipeline facilities.

The company must only report information to the extent that an employee or contractor of the company observes or becomes aware of these events.

(10) Each gas pipeline company must file with the commission the following annual reports no later than March 15 for the preceding calendar year:

(a) A copy of every Pipeline and Hazardous Materials Safety Administration (PHMSA) F-7100.1-1 and F-7100.2-1

annual report required by U.S. Department of Transportation, Office of Pipeline Safety.

~~(b) (A report titled, "Damage Prevention Statistics." The Damage Prevention Statistics report must include in detail the following information:~~

~~(i) Number of gas-related one-call locate requests completed in the field;~~

~~(ii) Number of third-party damages incurred; and~~

~~(iii) Cause of damage, where cause of damage is classified as one of the following:~~

~~(A) Inaccurate locate;~~

~~(B) Failure to use reasonable care;~~

~~(C) Excavated prior to a locate being conducted; or~~

~~(D) Excavator failed to call for a locate.~~

~~(e)) A report detailing all construction defects and material failures resulting in leakage. Each gas pipeline company must categorize the different types of construction defects and material failures anticipated for their system. The report must include the following:~~

~~(i) Types and numbers of construction defects; and~~

~~(ii) Types and numbers of material failures.~~

~~((8)) (11) Each gas pipeline company must file with the commission, and with appropriate officials of all municipalities where gas pipeline companies have facilities, the names, addresses, and telephone numbers of the responsible officials of the gas pipeline company who may be contacted in the event of an emergency. In the event of any changes in such personnel, the gas pipeline company must immediately notify the commission and municipalities.~~

~~((9)) (12) Each gas pipeline company must send to the commission, by e-mail, daily reports of construction and repair activities. Reports may be faxed only if the gas pipeline company does not have e-mail capability. Reports must be received no later than 10:00 a.m. each day of the scheduled work, and must include both gas pipeline company and contractor construction and repair activities. Report information must be broken down by individual crews and the scheduled work must be listed by address, as much as practical. To the extent possible the reports will only contain construction and repair activity scheduled for that day, but they may include a reasonable allowance for scheduling conflicts or disruptions.~~

~~((10)) (13) When a gas pipeline company is required to file a copy of a DOT Drug and Alcohol Testing Management Information System (MIS) Data Collection Form with the U.S. Department of Transportation, Office of Pipeline Safety, the gas pipeline company must simultaneously submit a copy of the form to the commission.~~

Title of Rule and Other Identifying Information: Chapter 480-75 WAC, Hazardous liquid pipelines—Safety.

Hearing Location(s): Commission's Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on December 19, 2012, at 9:30 a.m.

Date of Intended Adoption: December 19, 2012.

Submit Written Comments to: Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@utc.wa.gov, fax (360) 586-1150, by November 26, 2012. Please include Docket PL-120350 in your communication.

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Name of Proponent: Washington utilities and transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David W. Danner, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1208.

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October 24, 2012

David W. Danner
Executive Director
and Secretary

WSR 12-21-141

PROPOSED RULES

UTILITIES AND TRANSPORTATION

COMMISSION

[Docket PL-120350—Filed October 24, 2012, 11:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-07-087.

AMENDATORY SECTION (Amending Docket PL-070974, General Order R-548, filed 5/30/08, effective 6/30/08)

WAC 480-75-630 Incident reporting. (1) Each hazardous liquid pipeline company must give telephonic notice to the commission within two hours of discovery of an incident involving that company's pipeline, such as a release of a hazardous liquid, that results in:

- (a) A fatality;
- (b) Personal injury requiring hospitalization;
- (c) Fire or explosion not intentionally set by the pipeline company;
- (d) Spills of five gallons or more of product from the pipeline;
- (e) Damage to the property of the hazardous liquid pipeline company and others of a combined total cost exceeding twenty-five thousand dollars (automobile collisions and other equipment accidents not involving hazardous liquid or hazardous-liquid-handling equipment need not be reported under this rule);

(f) A significant occurrence in the judgment of the hazardous liquid pipeline company, even though it does not meet the criteria of (a) through (e) of this subsection;

(g) The news media reports the occurrence, even though it does not meet the criteria of (a) through (f) of this subsection.

(2) Each hazardous liquid pipeline company that has an incident described in subsection (1) of this section shall send a written report to the commission within thirty calendar days of the incident. The report must include the following:

- (a) Name(s) and address(es) of any person or persons injured or killed or whose property was damaged;
- (b) The extent of injuries and damage;
- (c) A description of the incident including date, time, and place;
- (d) A description and maximum operating pressure of the pipeline implicated in the incident and the system operating pressure at the time of the incident;
- (e) The date and time the pipeline returns to safe operations; and
- (f) The date, time, and type of any temporary or permanent repair.

(3) A hazardous liquid pipeline company must give the commission telephonic notification within twenty-four hours of emergency situations including emergency shutdowns, material defects, or physical damage that impairs the serviceability of the pipeline.

(4) In the event of damage to a hazardous liquid pipeline, each hazardous liquid pipeline company must provide to the commission the following information using either the commission's web-based damage reporting tool or its successor, or the damage reporting form located on the commission's web site:

(a) The reporting requirements set forth in RCW 19.122.053 (3)(a) through (n);

(b) If the damage is believed by the company to be the result of an excavation conducted without a facilities locate first being completed, the hazardous liquid pipeline company must also report the name, address, and phone number of the person or entity that the company has reason to believe may have caused the damage. The company must include this

information in the comment section of the web-based damage reporting tool form or sent to the commission separately. If the company chooses to send the information separately it must include sufficient information to allow the commission to link the name of the party believed to have caused the damage with the damage event reported through the damage reporting tool;

(c) Each hazardous liquid pipeline company must retain all damage and damage claim records it creates related to damage events, including photographs and documentation supporting the conclusion that a facilities locate was not completed, reported under subsection (b) of this section for a period of two years and make those records available to the commission upon request.

(5) Each hazardous liquid pipeline company must provide to an excavator who damages a hazardous liquid pipeline facility, the following information set forth in chapter 19.122 RCW:

(a) Notification requirements for excavators under RCW 19.122.050(1);

(b) A description of the excavator's responsibilities for reporting damages under RCW 19.122.053; and

(c) Information concerning the safety committee referenced under RCW 19.122.130, including committee contact information, and how the excavator may file a complaint with the safety committee.

(6) Each hazardous liquid pipeline company must report to the commission the details of each instance of the following when the company or its contractor observes or becomes aware of either of these events:

(a) An excavator digs within thirty-five feet of a transmission pipeline, as defined by RCW 19.122.020(26) without first obtaining a locate; or

(b) Someone maliciously damages or removes marks indicating the location or presence of pipeline facilities.

The company must only report information to the extent that an employee or contractor of the company observes or becomes aware of these events.