

WSR 14-14-006
EXPEDITED RULES
WASHINGTON STATE PATROL

[Filed June 19, 2014, 12:08 p.m.]

Title of Rule and Other Identifying Information: Chapter 446-30 WAC, Disposition of vehicles seized for altered vehicle identification numbers—Hearings.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lieutenant Keith Huntley, Washington State Patrol, Criminal Investigation Division, P.O. Box 42637, Olympia, WA 98504-2637, AND RECEIVED BY September 2, 2014.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: There is a need to update these rules to provide clean up and clarification to the existing language to ensure that the rules comply with current laws in the state of Washington.

Reasons Supporting Proposal: Provides clean up and clarification to existing language.

Statutory Authority for Adoption: RCW 46.12.725.

Statute Being Implemented: RCW 46.12.725.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Lieutenant Keith Huntley, P.O. Box 42637, Olympia, WA 98504-2637, (360) 704-2954; and Enforcement: WSP Criminal Investigation Division, P.O. Box 42637, Olympia, WA 98504-2637, (360) 704-2950.

June 16, 2014

John R. Batiste

Chief

AMENDATORY SECTION (Amending WSR 00-02-069, filed 1/4/00, effective 2/4/00)

WAC 446-30-010 Purpose. The purpose of this regulation is to provide administrative rules and standards for hearings conducted pursuant to chapter 124, Laws of 1974 1st ex. sess. (RCW 9.54.130 and ~~((46.12.330))~~ 46.12.725) relating to the disposition of motor vehicles, motorcycles, motor-driven cycles, trailers, vessels, motorboats, or component parts thereof impounded by the Washington state patrol.

AMENDATORY SECTION (Amending Order II, filed 11/22/74)

WAC 446-30-020 Definitions. (1) The term "aggregate value" of an article or articles whose ownership is in question ~~((shall))~~ will be the current market value of the article as

determined by procedures set out in WAC 446-30-040(2) as of the time of the proposed disposition.

(2) The term "interested party" or "party in interest" is defined as a party claiming ownership or a right to possession of the article involved.

(3) The term "article" ~~((shall))~~ will encompass the plural "articles" and includes motor vehicles, motorcycles, motor-driven cycles, trailers, vessels, motorboats, or component parts thereof.

AMENDATORY SECTION (Amending Order II, filed 11/22/74)

WAC 446-30-030 Hearing officer. The hearing ~~((shall))~~ will be conducted by a person appointed by the chief of the Washington state patrol. The hearing ~~((shall))~~ will be conducted at a place within the state designated by the hearing officer who ~~((shall))~~ will consider the convenience of the witnesses involved in the hearing, and the convenience of the parties in interest. The hearing officer, after having heard evidence submitted to him and having conducted a hearing in accordance with this chapter and chapter 446-08 WAC, ~~((shall))~~ will decide whether a party in interest has presented a claim of ownership or right to possession of the article involved sufficient to award possession of the article to the party. If so, ~~((he shall))~~ the hearing officer will order the article released to such party.

AMENDATORY SECTION (Amending Order II, filed 11/22/74)

WAC 446-30-040 Procedure. (1) Insofar as it is applicable, ~~((1))~~ Chapter 446-08 WAC, shall govern hearing procedure, and the service of notice of the hearing upon the person who held possession or custody of the article when it was impounded, and upon any other person who, prior to final disposition, notifies Headquarters, Washington state patrol, in writing of a claim of ownership or lawful right to possession thereof)) hearings under this chapter will be pursuant to chapters 34.05 RCW and 446-08 WAC as supplemented by this chapter.

(2) In accordance with ~~((chapter 124, Laws of 1974 1st ex. sess. (RCW 9.54.030(3))))~~ RCW 46.12.735, any person claiming ownership or right of possession hereunder may remove the matter to a court of competent jurisdiction if the aggregate value of the article involved is one hundred dollars or more. If the article involved is a component part or parts of a vehicle, then the right to remove the matter to a court of competent jurisdiction ~~((shall))~~ will be conditioned on the component part or parts having an aggregate value of one hundred dollars or more. An officer of the Washington state patrol assigned to the motor vehicle theft section ~~((shall))~~ must determine the current market value of the article based on such factors as the condition of the vehicle, the year, and the make of the vehicle, etc. The value finally arrived at by the officer should reflect the value of the vehicle on the open market. If the value of the article cannot be agreed upon by the officer and the interested party, a dealer who specializes in the type article ~~((shall))~~ must be contacted to determine the current market value.

(3) The hearing officer, after having heard all pertinent evidence submitted to ~~((him, shall))~~ him/her will make written findings of fact based on the evidence and written conclusions based on ~~((his))~~ the findings and applicable law in accordance with WAC 446-08-410. The findings and conclusions of the hearing officer ~~((shall))~~ will be served on all parties to the hearing within fifteen days of the close of the hearing. If a decision adverse to an interested party is made, no disposition ~~((shall))~~ will be made of the property until after thirty days following service of the hearing officer's decision, or until expiration of any stay of disposition granted by the hearing officer or court of competent jurisdiction, whichever date comes last.

(4) Upon application to the hearing officer by any interested party aggrieved by the decision for a stay of disposition in any matter in which an appeal has been filed, the hearing officer shall stay his or her order of disposition pending the outcome of the appeal to a court of competent jurisdiction.

AMENDATORY SECTION (Amending Order II, filed 11/22/74)

WAC 446-30-050 Burden of proof. The person or party in interest claiming to be the lawful owner or to have the lawful right to possession ~~((shall))~~ will have the burden of establishing his claim of ownership.

AMENDATORY SECTION (Amending Order II, filed 11/22/74)

WAC 446-30-060 Record. Any oral proceedings ~~((shall))~~ will be recorded on tape and such tape ~~((shall))~~ will become part of the hearing record.

AMENDATORY SECTION (Amending Order II, filed 11/22/74)

WAC 446-30-070 Appeal. Appeal from the decision of the hearing officer to a superior court by an interested party aggrieved by a decision in a contested case ~~((shall))~~ must be in accordance with RCW ~~((34.04.130))~~ 34.05.570 and applicable court rules.

WSR 14-14-007
EXPEDITED RULES
WASHINGTON STATE PATROL
[Filed June 19, 2014, 12:09 p.m.]

Title of Rule and Other Identifying Information: Chapter 470-08 WAC, Practice and procedure.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF

THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO CVEO 4 William Balcom, Washington State Patrol, Motor Carrier Safety Division, P.O. Box 42614, Olympia, WA 98504-2614, AND RECEIVED BY September 2, 2014.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: There is a need to remove these rules as this chapter is out-of-date and is now covered under chapter 34.05 RCW.

Reasons Supporting Proposal: Repeals redundant and outdated language.

Statutory Authority for Adoption: RCW 46.48.170.

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

Name of Agency Personnel Responsible for Drafting and Implementation: CVEO 4 Bill Balcom, P.O. Box 42614, Olympia, WA 98504-2614, (360) 596-3807; and Enforcement: Commercial Vehicle Enforcement Bureau, P.O. Box 42614, Olympia, WA 98504-2614, (360) 596-3807.

June 16, 2014
John R. Batiste
Chief

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 470-08-005 Definitions.
- WAC 470-08-540 Petitions for rule making, amendment or repeal.
- WAC 470-08-580 Declaratory rulings.
- WAC 470-08-590 Forms.

WSR 14-14-008
EXPEDITED RULES
WASHINGTON STATE PATROL
[Filed June 19, 2014, 12:11 p.m.]

Title of Rule and Other Identifying Information: Chapter 470-12 WAC, Transportation rules.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO CVEO 4 William Balcom, Washington State Patrol, Motor Carrier Safety Division, P.O. Box 42614, Olympia, WA 98504-2614, AND RECEIVED BY September 2, 2014.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: There is a need to remove these rules as this chapter is out-of-date and is now covered under chapter 446-50 WAC, Transportation of hazardous materials.

Reasons Supporting Proposal: Repeals redundant and outdated language.

Statutory Authority for Adoption: RCW 46.48.170.

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

Name of Agency Personnel Responsible for Drafting and Implementation: CVEO 4 Bill Balcom, P.O. Box 42614, Olympia, WA 98504-2614, (360) 596-3807; and Enforcement: Commercial Vehicle Enforcement Bureau, P.O. Box 42614, Olympia, WA 98504-2614, (360) 596-3807.

June 16, 2014
John R. Batiste
Chief

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 470-12-010	Adoption statement.
WAC 470-12-020	Scope.
WAC 470-12-030	Flammable liquids in tank vehicles.
WAC 470-12-040	Flammable liquids in portable containers and all other dangerous articles.
WAC 470-12-050	Supplemental regulations.
WAC 470-12-060	Appeals.

WSR 14-14-010

EXPEDITED RULES

DEPARTMENT OF ECOLOGY

[Order 14-01—Filed June 19, 2014, 3:43 p.m.]

Title of Rule and Other Identifying Information: Ecology is proposing to repeal two obsolete rules: Chapter 173-330 WAC, Used automobile oil recycling sign requirements for automobile oil sellers and chapter 173-24 WAC, Tax exemptions and credits for pollution control facilities.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Bari Schreiner, Agency Rules Coordinator, Washington Department of Ecology, P.O.

[Box] 47600, Olympia, WA 98504-7600, e-mail rulemaking@ecy.wa.gov, AND RECEIVED BY September 3, 2014.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Repeal of chapter 173-330 WAC. Repeal of this obsolete rule will not impact other existing rules or any entities who currently provide used oil recycling.

Repeal of chapter 173-24 WAC. Repeal of this obsolete rule will not impact any tax exemptions or credits currently received by facilities.

Reasons Supporting Proposal: Chapter 173-330 WAC: All sections of the enabling statute, chapter 19.114 RCW, Used automotive oil recycling, were repealed in 1991. More comprehensive legislation and requirements for used oil recycling were adopted by the 1991 legislature as chapter 70.951 RCW, Used oil recycling. Chapter 70.951 RCW contains requirements for education, including signs. Chapter 173-330 WAC is no longer authorized or necessary.

Chapter 173-24 WAC: Until November 30, 1981, chapter 82.34 RCW, Pollution control facilities—Tax exemptions and credits, authorized pollution control facilities to apply to the department of revenue for a tax credit or exemption. The appropriate pollution control agency was then required to review the application and if appropriate approve that the facility was a pollution control facility. Ecology's role for facilities under its jurisdiction was to identify and classify facilities, and to confirm that the facility controlled, captured and removed pollutants from the air and water. The review was conducted for water pollution control facilities and any facilities related to an air contaminant source. Chapter 173-24 WAC describes ecology's process for reviewing and approving facilities.

In 1981, the legislature amended the law in chapter 82.34 RCW to provide that the last date applications for pollution control tax credits or exemptions could be filed was November 30, 1981. Since applications are no longer accepted under chapter 82.34 RCW, the rules in chapter 173-24 WAC have no purpose, and we are proposing to repeal them. Repealing this chapter will not impact any tax exemptions or credits currently received by facilities.

Statutory Authority for Adoption: Chapter 173-330 WAC requires sellers of automotive oil to post signs informing the public about how to recycle used automotive oil. The statute enabling chapter 173-330 WAC, chapter 19.114 RCW, was repealed in 1991 and replaced by chapter 70.951 RCW. Chapter 173-330 WAC is no longer authorized or needed, and was replaced by requirements for signs found in the more comprehensive chapter 70.951 RCW.

Chapter 173-24 WAC was originally adopted under the authority in RCW 82.34.040, which authorized ecology to "adopt such rules as it deems necessary for the administration of this chapter" RCW 82.34.040 likewise authorizes repeal of the chapter.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting and Enforcement: Does not apply; and Implementation: Kyle

Dorsey, Ecology/W2R/HQ, (360) 407-6559 and Bari Schreiner, Ecology/HQ, (360) 407-6998.

June 19, 2014
Polly Zehm
Deputy Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-24-010 Introduction and purpose.
- WAC 173-24-020 Authority.
- WAC 173-24-030 Definitions.
- WAC 173-24-040 Applications submitted to the department of revenue.
- WAC 173-24-050 Applications reviewed by the department.
- WAC 173-24-060 Action by the department within thirty days—Request for further information.
- WAC 173-24-070 Identification and classification of facilities.
- WAC 173-24-080 Approval of a facility.
- WAC 173-24-090 Installation for the purpose of pollution control.
- WAC 173-24-100 Operation for the purpose of pollution control.
- WAC 173-24-110 Meeting the intent and purposes of chapters 70.94 and 90.48 RCW.
- WAC 173-24-120 Treatment before connection to utilities.
- WAC 173-24-125 Revision of prior findings.
- WAC 173-24-130 Administrative appeal of department decision.
- WAC 173-24-140 Delegation.
- WAC 173-24-150 Delegation of state responsibilities under federal program.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-330-010 Purpose.
- WAC 173-330-020 Applicability.
- WAC 173-330-030 Definitions.
- WAC 173-330-040 Responsibility to procure and post sign.
- WAC 173-330-050 Sign criteria.
- WAC 173-330-060 Posting and maintenance of signs.
- WAC 173-330-070 Effective date and compliance.

WAC 173-330-900 Logo and sign.

WSR 14-14-051**EXPEDITED RULES****SEATTLE COMMUNITY COLLEGES**

[Filed June 25, 2014, 3:35 p.m.]

Title of Rule and Other Identifying Information: Title 132F WAC.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Amanda Davis Simpfenderfer, Seattle Community College, 1500 Harvard Avenue, Seattle, WA 98122, AND RECEIVED BY September 2, 2014.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Removing the word "community" from the name of the colleges. The new names will be Seattle Central College, South Seattle College, North Seattle College, Seattle College District, and the Seattle Colleges.

Reasons Supporting Proposal: The Seattle Colleges board of trustees voted at its March 13 board meeting to change the name of the colleges within College District VI to Seattle Central College, South Seattle College, North Seattle College, Seattle College District, and the Seattle Colleges.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Statute Being Implemented: RCW 28B.40.040(6).

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

Name of Proponent: Dr. Jill Wakefield, chancellor, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Carin Weiss, Vice-Chancellor, 1500 Harvard Avenue, Seattle, WA 98122, (206) 934-6744.

May 19, 2014
Jill Wakefield
Chancellor

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

WAC 132F-01-010 Appointing authority. (1) The board of trustees of ((Community)) Seattle College District VI is the appointing authority for employees of the district, pursuant to RCW 28B.50.140. RCW 28B.10.528 provides that the board may delegate any of its powers and duties to

the district president or his designee, and RCW 28B.50.140 (14) provides that the board may delegate any of its powers and duties to the district president. In District VI, the district president also carries the title of "chancellor."

(2) The board of trustees of ((Community)) Seattle College District VI delegates to the district president (or any acting district president or interim district president) the appointing authority for the campus presidents and the district office personnel.

(3) The president of ((Community)) Seattle College District VI designates, and the board of trustees delegates to the campus presidents (or any acting campus president or interim campus president) the appointing authority for their respective campuses.

(4) The chancellor or a campus president may designate another person to act as the respective appointing authority in his or her absence.

AMENDATORY SECTION (Amending Order 1970-2, filed 3/27/70)

WAC 132F-20-020 Adoption of rules. Upon adoption by the board of trustees of Seattle ((Community College, Community)) College District VI, these rules shall be in full force and effect.

Chapter 132F-104 WAC

SEATTLE ((COMMUNITY)) COLLEGE DISTRICT BOARD OF TRUSTEES—RULES AND REGULATIONS

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

WAC 132F-104-010 Regular meetings of the ((Community)) Seattle College District VI board of trustees. The board of trustees will hold regular meetings in accordance with the Open Public Meetings Act, chapter 42.30 RCW, and other applicable law. These meetings will be held during eleven months of the year (except August) on the second Thursday, unless that day is a legal holiday, in which case the meeting will be on the next business day, or unless the date is otherwise modified by board action. The dates, times, and places for such regular meetings shall be specified by motions, resolutions, or other appropriate actions of the board, or otherwise in accordance with applicable law.

AMENDATORY SECTION (Amending WSR 94-18-070, filed 9/1/94, effective 10/2/94)

WAC 132F-108-040 Application for adjudicative proceeding. An application for an adjudicative proceeding shall be in writing. Application forms are available at the following address:

Seattle ((Community)) College District VI
1500 Harvard Avenue
Seattle, Washington 98122

Written application for an adjudicative proceeding should be submitted to the above address within ((20)) twenty days of

the agency action giving rise to the application, unless provided for otherwise by statute or rule.

AMENDATORY SECTION (Amending Order 3415, filed 4/27/72)

WAC 132F-112-003 Purpose. Pursuant to chapter 196, Laws of 1971 ex. sess., the board of trustees of ((Community)) Seattle College District No. 6 establishes the following rules to strengthen methods of administering employer-employee relations through the establishment of orderly methods of communication between academic employees of ((Community)) Seattle College District No. 6 and the board of trustees of ((Community)) Seattle College District No. 6.

AMENDATORY SECTION (Amending Order 3415, filed 4/27/72)

WAC 132F-112-006 Request for election—Canvass of academic employees by independent and neutral person or association. Any organization of academic employees of ((Community)) Seattle College District No. 6 desiring to be recognized as the majority organization representing such employees pursuant to chapter 196, Laws of 1971 ex. sess., shall request in writing of the board of trustees of ((Community)) Seattle College District No. 6 that an election be held to determine whether a majority of such employees desire to designate it as their representative for the purposes of the act. Upon the receipt of such a request the board of trustees of ((Community)) Seattle College District No. 6 will request some independent and neutral person or association to determine whether thirty percent or more of the academic employees of ((Community)) Seattle College District No. 6 have indicated that they desire to be represented by that organization for such purposes. The independent and neutral person or association shall make such determination upon the basis of records of dues, paying memberships, signed authorizations to represent, or other reliable and probative evidence.

AMENDATORY SECTION (Amending Order 3415, filed 4/27/72)

WAC 132F-112-009 Notice of election—Organizations to be included on ballot—Time for filing. If the independent and neutral person or association determines that thirty percent or more of the academic employees of ((Community)) Seattle College District No. 6 have indicated that they desire to be represented by that organization for such purposes, the board of trustees of ((Community)) Seattle College District No. 6 will publish a notice that it will hold an election as soon as practical to determine whether the academic employees of ((Community)) Seattle College District No. 6 desire the requesting organization or any other organization to represent them for the purposes of chapter 196, Laws of 1971 ex. sess. Any other organization of academic employees desiring to be designated as the majority organization representing such employees shall, within seven days after publication of such notice by the board of trustees of ((Community)) Seattle College District No. 6, file with the board of trustees a request in writing that its name be included on the ballot in the election to be held together with

written proof of at least ten percent representation of the academic employees of the district. The request by this organization shall be submitted to the same neutral person or association designated pursuant to WAC 132F-112-006 who shall rule according to the criteria stated therein as to each request received pursuant to this section. No organization shall be permitted to have its name placed on the ballot used in the election unless such a request has been received within seven days after the publication of the notice that an election will be held.

AMENDATORY SECTION (Amending Order 3415, filed 4/27/72)

WAC 132F-112-012 Contents of notice of election—Designation of chief election officer—Duties. The notice published by the board of trustees of ~~((Community))~~ Seattle College District No. 6, pursuant to WAC 132F-112-009, shall state the date, hours, and polling places for the election. The notice shall also designate a chief election officer of the election and charge him with the duty of preparing the ballots and promulgating instructions concerning the details of the election to be conducted pursuant to WAC 132F-112-003 through 132F-112-063.

AMENDATORY SECTION (Amending Order 3415, filed 4/27/72)

WAC 132F-112-021 Ballots. The ballots used in any election held pursuant to WAC 132F-112-003 through 132F-112-063 shall be in the following form:

To select for representation purposes pursuant to chapter 196, Laws of 1971 ex. sess., a majority organization to represent academic employees of ~~((Community))~~ Seattle College District No. 6.

	Vote for one
ORGANIZATION X	<input type="checkbox"/>
ORGANIZATION Y	<input type="checkbox"/>
NO ORGANIZATION (neither)	<input type="checkbox"/>

Do not sign your name or put other identifying marks on this ballot. Should you incorrectly mark this ballot or otherwise spoil it, you may return it to the chief election officer or his inspector and obtain a new ballot.

AMENDATORY SECTION (Amending Order 3415, filed 4/27/72)

WAC 132F-112-042 Election inspectors' duties after voting has terminated. When all voting has terminated at a polling place, the election inspectors will bring to the chief election officer at the ~~((Community))~~ Seattle College District office the following:

- (1) Signed voting list of eligible academic employees~~((2))~~;
- (2) All unused ballots~~((3))~~;
- (3) All challenged ballots~~((and 4))~~; and
- (4) The sealed ballot box containing all ballots cast.

AMENDATORY SECTION (Amending Order 3415, filed 4/27/72)

WAC 132F-112-048 Counting of ballots—Procedure—Certification of results of election—Retention of ballots—Signed voting lists. When ballot boxes from all voting places have been received by the chief election officer's inspector, he shall open them and thoroughly mix all ballots cast so that it is impossible to identify the polling place from which any particular ballot came. The ballots cast shall be separated into the categories as they have been cast for organizations participating in the election, for no organization, and void ballots which are unintelligible or for an organization not participating in the election. The ballots in these categories shall be counted by the chief election officer with the assistance of such of his election inspectors as shall be necessary in the presence of the inspectors for the organizations participating in the election. After the ballots have been so counted each inspector designated by the organizations to serve at the ~~((community))~~ Seattle College District office shall indicate by his signature upon the tally sheet that he agrees with the count made, or in case of disagreement, he shall write a short statement of his grounds for disagreement with the count. The chief election officer shall certify to the board of trustees the results of the election within forty-eight hours after the polls have been closed. The used ballots, the unused ballots, the challenged ballots, and the signed voting lists of eligible academic employees shall be kept by the chief election officer or some person designated by him for one year after the election.

AMENDATORY SECTION (Amending Order 3415, filed 4/27/72)

WAC 132F-112-057 Persons eligible to vote—Definition of "academic employee." All academic employees of ~~((community))~~ Seattle College District No. 6 shall be eligible to vote pursuant to WAC 132F-112-003 through 132F-112-063 who are employed at the time of the election provided for by such rules and who: 1) Are employed on a full-time basis, or 2) if employed on a part-time basis, have been employed as an academic employee of the district for at least one other quarter (i.e., fall, winter, spring, or summer quarter) during either the current or the previous academic year. "Academic employee" shall mean any teacher, counselor, librarian, or department head, division head, or administrator, who is employed by ~~((community))~~ Seattle College District No. 6, with the exception of the chief administrative officer of the district.

AMENDATORY SECTION (Amending Order 3415, filed 4/27/72)

WAC 132F-112-060 Election determined by majority of valid votes cast—Runoff election. An organization of academic employees which receives a majority of the valid votes cast in an election held in accordance with WAC 132F-112-003 through 132F-112-063 shall be recognized as representing the academic employees of ~~((community))~~ Seattle College District No. 6 pursuant to chapter 196, Laws of 1971 ex. sess. If more than one organization of academic employ-

ees has participated in an election and a majority of the valid votes cast have not been either for representation by one of the organizations or for no representation, a runoff election shall be held. In such a runoff, only those two choices receiving the highest number of valid votes cast in the initial election shall appear on the ballot.

AMENDATORY SECTION (Amending Order 15, filed 4/24/74)

WAC 132F-113-010 Nepotism policy. WAC 132F-112-010 through 132F-112-040 shall be known as the ((community)) Seattle College VI nepotism policy.

AMENDATORY SECTION (Amending Order 15, filed 4/24/74)

WAC 132F-113-020 Definitions. (1) Major organizational component: The following are considered major organizational components of the Seattle ((Community)) College District.

- (a) North Seattle ((Community)) College
- (b) Seattle Central ((Community)) College
- (c) South Seattle ((Community)) College
- (d) Seattle ((Community)) College District office,

including the president's office, employee relations, office for curriculum services, business services, facilities management and planning, and systems and computing services.

(2) Employee: Any individual who receives payment for services rendered to the Seattle ((Community)) College District is considered an employee of the district, except for outside vendors and contractors.

(3) Relatives: A family relationship is considered to exist between an employee *and*: Spouse, mother, father, child (including foster and adopted children), siblings, grandparents, cousins, uncles, aunts, nephews, nieces, and in-laws.

AMENDATORY SECTION (Amending Order 15, filed 4/24/74)

WAC 132F-113-040 Basic nepotism policy. In the appointment of its faculty and staff members, the Seattle ((Community)) College District seeks those persons qualified to fulfill the institution's teaching and service obligations. Accordingly, members of the same family may be appointed to district faculty and staff positions when it has been determined that they are the most qualified candidates for the position. However, according to state law a person may not be hired into a position that would result in a relationship where one individual is involved in the appointment, termination of appointment, promotion, demotion, approval of salary increase or decrease of a member of the individual's family or of a person with whom there is substantial economic interest.

AMENDATORY SECTION (Amending Order 29, filed 10/10/75)

WAC 132F-116-010 Traffic rules and regulations. (1) The motor vehicle and other traffic laws of the state of Washington shall be applicable upon all lands located within the state of Washington.

(2) The traffic code of the city of Seattle shall be applicable upon all lands located within the city of Seattle.

(3) These regulations shall be applicable to all state lands which are or may hereafter be devoted mainly to educational, public service, and other activities sponsored or endorsed by Seattle ((Community)) College District VI.

AMENDATORY SECTION (Amending Order 29, filed 10/10/75)

WAC 132F-116-020 Permits required for vehicles. No person shall park or leave any vehicle, whether attended or unattended, upon any officially designated parking area of Seattle ((Community)) College District VI without a valid parking permit. No vehicle shall be parked in any parking area without a permit for that area, except state-owned vehicles used by the college.

(1) A valid permit is:

(a) An unexpired parking decal properly registered and displayed in accordance with instructions.

(b) An authorized temporary or visitor permit, displayed in accordance with the instructions on the permit.

(2) Parking permits are not transferable.

(3) The college reserves the right to refuse the issuance of a parking permit.

AMENDATORY SECTION (Amending Order 29, filed 10/10/75)

WAC 132F-116-100 Parking—Special exemptions. (1) Consideration shall be given to provide parking for the following (on a space available basis):

(a) Members of the press, television and radio on official business.

(b) ((Vehicles)) Vehicles owned by contractors and their employees working on campus construction.

(2) Members of the college board of trustees and retired employees of the Seattle ((Community)) College District will be given complimentary annual permits.

(3) Federal, state, county, city and school district personnel on official business and in vehicles with tax exempt licenses.

AMENDATORY SECTION (Amending WSR 13-11-127, filed 5/21/13, effective 6/21/13)

WAC 132F-121-010 Definitions and general provisions. For purposes of this chapter:

(1)(a) Bullying is defined as the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at another student or staff that:

(i) Intentionally causes physical or emotional imminent harm to the student or damage to the student's property;

(ii) Places the student in reasonable fear of harm to herself or himself or of damage to the student's property;

(iii) Creates an unlawful hostile environment at school for the student;

(iv) Infringes on the rights of the student at school; or

(v) Is conduct that is sufficiently severe or pervasive to cause material disruption to the ability of a student to participate or benefit in the education program.

(b) Cyber-bullying is defined as bullying through the use of technology or any electronic communication which shall include, but not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic, or photo optical system including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyber-bullying shall also include the creation of a web page or blog in which the creator posted content or messages, if the creation or impersonation creates any of the conditions constituting bullying in the student conduct code. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions constituting bullying in the student conduct code.

(2) The terms "college" and "campus" are used interchangeably, and each refers to any of the district's three colleges, North Seattle ((Community)) College, Seattle Central ((Community)) College, and South Seattle ((Community)) College. The Seattle Vocational Institute is considered to be part of Seattle Central ((Community)) College.

(3) "Day" means calendar day, unless specified otherwise, and deadlines shall be computed in accordance with WAC 10-08-080.

(4) "District" means the sixth state college district, the district administrative offices (Siegal Center), North Seattle ((Community)) College, Seattle Central ((Community)) College, South Seattle ((Community)) College, the Seattle Vocational Institute, and/or every other District VI educational facility, each separately and all together.

(5) "District community" includes, but is not limited to, the district itself and all enrolled students, employees, officers, and invitees of the district.

(6) "District property" includes all real property, buildings, and other facilities that are owned, leased, or controlled by the district or by the state for district purposes.

(7) "Vice-president for student services" means the person whom a college president has appointed to that position or has otherwise designated to perform the functions ascribed to that position in this chapter.

(8) An action or activity that may be authorized or taken by the district chancellor, a vice chancellor, a campus president, or a campus vice-president may also be authorized or taken by any other person whom that officer has specifically designated to perform that function on his/her behalf, but this officer retains responsibility for the function.

(9) After the adoption of these rules, if a statute or rule to which they refer is renumbered or otherwise amended, these rules shall be interpreted to the fullest extent possible to incorporate such amendment while still giving effect to their original purposes.

(10) Service of any document, notice, or copy under this chapter shall be made (a) by personal delivery, (b) by mailing to the recipient's last known address, which service shall be regarded as complete upon deposit in the U.S. mail properly

stamped and addressed, or (c) as otherwise authorized by law or rule.

(11) The term "student" includes all persons taking courses at the district, either full-time or part-time. Persons who withdraw after allegedly violating the student code, who are not officially enrolled for a particular term but who have a continuing relationship with the district, or who have been notified of their acceptance for admission are considered "students" as are persons who are living in district resident halls, although not enrolled at the district.

AMENDATORY SECTION (Amending Order 12, filed 5/22/73)

WAC 132F-124-010 Financial obligations of students. Admission to or registration with the colleges of ((Community)) Seattle College District VI, conferring of degrees and issuance of academic transcripts may be withheld for failure to meet financial obligations to the college or district.

AMENDATORY SECTION (Amending Order 3, filed 9/20/72)

WAC 132F-136-010 Use of college facilities. Because the Seattle ((Community)) College is an educational institution provided and maintained by the people of the state, its campus, buildings, properties, and facilities shall be reserved at all times for those activities which either are related directly to its educational mission or are justifiable on the basis of their contributions to the cultural, social, or economic development of the state.

AMENDATORY SECTION (Amending Order 35, filed 11/21/77)

WAC 132F-136-060 Prohibited conduct at college facilities. (1) State law relative to public institutions govern the use or possession of intoxicants on campus or at college functions. The use or possession of unlawful narcotics or drugs, not medically prescribed, on college property or at college functions, is prohibited. Students obviously under the influence of intoxicants, unlawful drugs or narcotics while in college facilities shall be subject to disciplinary action.

(2) A lottery or any other form of gambling is prohibited at Seattle ((Community)) College District.

(3) The use of tobacco is restricted by law and by regulations of the fire marshal to designated smoking areas.

(4) Destruction of property is also prohibited by state law in reference to public institutions.

AMENDATORY SECTION (Amending WSR 14-01-015, filed 12/6/13, effective 1/6/14)

WAC 132F-142-010 Statement of purpose. The Seattle ((Community)) Colleges are educational institutions provided and maintained by the people of the state of Washington. College facilities are reserved primarily for educational use including, but not limited to, instruction, research, public assembly of college groups, student activities and other activities directly related to the educational mission of the col-

leges. The public character of the colleges does not grant to individuals the right to substantially interfere with, or otherwise disrupt the normal activities for and to which the colleges' facilities and grounds are dedicated. Accordingly, the colleges are designated public forums opened for the purposes recited herein and further subject to the time, place, and manner provisions set forth in these rules.

The purpose of the time, place and manner regulations set forth in this policy is to establish procedures and reasonable controls for the use of college facilities for both college and noncollege groups. It is intended to balance the colleges' responsibility to fulfill their mission as state educational institutions of Washington with the interests of college groups and noncollege groups who are interested in using the campus for purposes of constitutionally protected speech, assembly or expression. The colleges recognize that college groups should be accorded the opportunity to utilize the facilities and grounds of the colleges to the fullest extent possible. The college intends to open its campus to noncollege groups to the extent that the usage does not conflict with the rights of college groups or substantially disrupt the educational process.

AMENDATORY SECTION (Amending WSR 14-01-015, filed 12/6/13, effective 1/6/14)

WAC 132F-142-020 Definitions. (1) "College facilities" or "campus" includes all buildings, structures, grounds, office space, and parking lots.

(2) "College group" means individuals who are currently enrolled students or current employees of the Seattle ((Community)) Colleges or individuals who are sponsored by faculty, a recognized student organization or a recognized employee group of the college.

(3) "Noncollege group" means individuals or groups who are not currently enrolled students or current employees of the Seattle ((Community)) Colleges.

(4) "Public forum areas" means those areas of each campus that the college has chosen to be open as places for expressive activities protected by the first amendment, subject to reasonable time, place or manner provisions.

(5) "Sponsor" means that when a college group invites a noncollege group onto campus, the college group will be responsible for the activity and will designate an individual to be present at all times during the activity. The sponsor will ensure that those participating in the sponsored activity are aware of the college's rules and policies governing the activity. This definition does not apply to noncollege groups that rent college facilities.

AMENDATORY SECTION (Amending WSR 14-01-015, filed 12/6/13, effective 1/6/14)

WAC 132F-142-040 Additional requirements for noncollege groups. (1) College facilities may be rented by noncollege groups in accordance with the college's facilities use policy. Noncollege groups may otherwise use college facilities in accordance with the Seattle ((Community)) Colleges' rules.

(2) The college designates its grounds and outdoor spaces as the public forum area(s) for use by noncollege

groups for first amendment activities on campus. Nothing in these rules prohibits noncollege groups from engaging in first amendment activities at open public meetings, subject to the requirements of RCW 42.30.050.

(3) Noncollege groups at North Seattle ((Community)) College and South Seattle ((Community)) College may use the public forum areas for first amendment activities between the hours of 6:00 a.m. and 10:00 p.m. and those colleges and their campuses are not open to the general public except during these times. Due to Seattle Central ((Community)) College's urban setting, there are no temporal restrictions on first amendment activities at that college except as otherwise provided in these rules.

(4) Before engaging in first amendment activities, all noncollege groups are encouraged to sign in and notify the college of the noncollege group's presence on campus and to acknowledge receipt of these rules and to ensure that there are no scheduling conflicts. This notice does not involve any application or approval process, and therefore, the ability to use designated areas will not be denied unless they are already reserved for use by another group. This notice is intended to provide the college with knowledge of the noncollege group's presence on campus so that the college can notify the appropriate members of its staff whose services might be needed or impacted by the use of the designated area. When signing in, the individual or group are encouraged to provide the following information:

(a) The name, address, and telephone number of the individual, group, entity, or organization sponsoring the activity (hereinafter "the sponsoring organization"); and

(b) The name, address, and telephone number of a contact person for the sponsoring organization; and

(c) The date, time, and requested location of the activity; and

(d) The type of sound amplification devices to be used in connection with the activity, if any; and

(e) The estimated number of people expected to participate in the activity.

AMENDATORY SECTION (Amending WSR 87-08-026, filed 3/26/87)

WAC 132F-148-010 Policy statement. The policy of Seattle ((Community)) College District (((SCCD)) SCD) is to provide equal opportunity to all its employees and applicants for employment, and to assure that there is no discrimination against any persons on the grounds of race, ethnicity, creed, color, religion, national origin, age, gender, sexual orientation, marital status, or the presence of any physical, sensory, or mental handicap, except where a disability may impede performance to an acceptable level. However, reasonable accommodations will be made for known physical or mental limitations for all otherwise qualified persons of disability. The Seattle ((Community)) College is committed to affirmative action for Asians, Blacks, Hispanics, Native Americans, women, persons between the ages of 40 and 70, persons of disability, and disabled and Vietnam-era veterans. This policy extends to all areas of employment and to all relations with employees including recruitment, selection and placement, compensation, promotion and transfer, disciplinary

measures, demotions, layoffs and terminations, testing and training, daily working conditions, awards and benefits, and other terms and conditions of employment.

The importance of fulfilling this policy is given top priority consideration in the day-to-day operations of the SCCD. All employees have been, and will continue to be, made aware that any violations of this policy by an employee shall result in appropriate disciplinary action, including termination, if warranted.

Affirmative action is a priority in the district because it insures equal employment opportunities for all applicants, while also assisting in ways to hire underrepresented groups in the district's labor force.

The successful implementation of this policy will depend upon a cooperative spirit and commitment to achieve the goals set forth. The district will work with the district minority task forces and the greater Seattle communities in seeing that the SCCD affirmative action plan/program, which is updated annually and included in the appendices of this manual, is implemented in a responsible and conscientious manner.

AMENDATORY SECTION (Amending WSR 85-13-076, filed 6/19/85)

WAC 132F-148-060 Personnel policies relative to affirmative action. (1) Age discrimination. Seattle ((Community)) College District will provide equal opportunity for all persons without regard to age. The district does not discriminate on the basis of age in any employment practices including hiring, promotion, demotion, transfer, recruitment, layoff and return from layoff, termination, fringe benefits, selection for training, and other terms of employment.

Further, the district does not specify a minimum or maximum age requirement on its advertisements for employees except upon the basis of a bona fide occupational qualification, retirement plan, or statutory requirement.

(2) Employment of Vietnam era veterans and disabled veterans. Seattle ((Community)) College District does not discriminate against Vietnam era veterans or disabled veterans in any employment practices including but not limited to hiring, promotion, demotion, transfer, compensation, layoff, fringe benefits, selection for training, and other terms and conditions of employment. Advertisements for positions are sent to all relevant offices and agencies.

(3) Employment of disabled persons. Seattle ((Community)) College District does not discriminate against any employee or applicant for employment because of a disability with regard to any position for which the employee or applicant is qualified. Further, the district does not discriminate against disabled persons with regard to promotion, demotion, transfer, layoff or return from layoff, termination, compensation, fringe benefits, training opportunities, and other terms and conditions of employment.

The district will make reasonable accommodations within budgetary limits for those who are disabled to allow them to perform the duties of the jobs for which they are qualified.

Several ((on-going)) ongoing efforts are aimed at insuring nondiscrimination for disabled persons:

(a) Evaluation of physical accommodations to assure that they are accessible.

(b) Review of faculty and administrative job requirements to assure that they are job-related and do not screen out qualified disabled applicants.

(c) Review of administrative job descriptions to assure that they are accurate and are not written to exclude qualified disabled applicants.

(d) Periodic articles in district publications related to legal and other aspects of the employment of disabled persons.

AMENDATORY SECTION (Amending Order 17, filed 5/22/73)

WAC 132F-162-040 Borrower classification. Within the college community there are several readily identifiable library material user groups for which the character and intensity of use differs. The primary groups are credit and noncredit students, faculty, administrative personnel and nonacademic staff. Borrowers are classified as:

- (1) Credit students;
- (2) Employees of the district;
- (3) Continuing education, noncredit students;

The instructional resources center may extend services on proper identification to persons not affiliated with the college. Borrowing privileges may be extended to such persons if they reside within ((Community)) Seattle College District VI, or if they are a duly enrolled student or faculty member of one of the other state community colleges, or if they are spouses of ((Community)) College faculty, administrative or nonacademic staff members. The instructional resources center extends services to other libraries through the "interlibrary loan" process. These borrowers are classified as:

- (4) Community patrons;
- (5) Reciprocal students and faculty from other state community colleges;
- (6) Spouses of borrower class (2);
- (7) Retired faculty of ((Community)) College;
- (8) Other libraries through the "interlibrary loan" process.

AMENDATORY SECTION (Amending Order 17, filed 5/22/73)

WAC 132F-162-050 Identification card. Each student borrower is responsible for obtaining an official identification number affixed to his or her student body card by the college instructional resources center. Each nonstudent borrower is responsible for obtaining an official identification card from the head librarian of the instructional resources center. Reciprocal students and faculty must provide official identification from their institutions in order to obtain a ((Community)) College identification card.

AMENDATORY SECTION (Amending Order 11, filed 4/19/73)

WAC 132F-164-010 Promulgation. Pursuant to the authority granted by RCW 43.19.190 and chapter 34.04

RCW the Seattle ((Community)) College District hereby promulgates the following rules and regulations with respect to bidding, bids, and contracts.

AMENDATORY SECTION (Amending WSR 14-07-091, filed 3/18/14, effective 4/18/14)

WAC 132F-168-010 Access to public records. (1) The Seattle ((Community)) College District VI is a community college district organized under RCW 28B.50.040. The Seattle ((Community)) College District VI's central office is located at 1500 Harvard Ave., Seattle, WA 98122. The Seattle ((Community)) College District VI has field offices at:

- 9600 College Way North, Seattle, WA 98103
- 6000 16th Ave. S.W., Seattle, WA 98103
- 1701 Broadway, Seattle, WA 98122
- 2120 South Jackson St., Seattle, WA 98144

(2) Any person wishing to request access to public records of Seattle ((Community)) College District VI, or seeking assistance in making such a request should contact the public records officer of the Seattle ((Community)) College District VI at:

Public Records Officer
Seattle ((Community)) College District VI
1500 Harvard Ave.
Seattle, WA 98122
206-934-3873
SCCDPublicRecordsRequest@seattlecolleges.edu

(3) The public records officer will oversee compliance with the act but another Seattle ((Community)) College District VI staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the Seattle ((Community)) College District VI will provide the "fullest assistance" to requestors; create and maintain for use by the public and Seattle ((Community)) College District VI officials an index to public records of the Seattle ((Community)) College District VI; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the Seattle ((Community)) College District VI.

AMENDATORY SECTION (Amending WSR 14-07-091, filed 3/18/14, effective 4/18/14)

WAC 132F-168-020 Purpose. (1) RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to include 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 the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of these rules is to establish the procedures Seattle ((Community)) College District VI will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the Seattle ((Community)) College District VI and establish processes for both requestors and Seattle ((Community)) College District VI staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the Seattle ((Community)) College District VI will be guided by the provisions of the act describing its purposes and interpretation.

AMENDATORY SECTION (Amending WSR 14-07-091, filed 3/18/14, effective 4/18/14)

WAC 132F-168-030 Request for document inspection. (1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the Seattle ((Community)) Colleges, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at either the district office or at a field office when those records are stored or maintained at that location. To make arrangements to inspect records at a Seattle ((Community)) College District field office, contact the public records officer to schedule the inspection.

(2) **Records index.** An index of public records is available for use by members of the public, including nonexempt final orders, declaratory orders, interpretive statements, and policy statements, as defined by RCW 42.56.070(5), issued after June 30, 1990, by the board of trustees of the district, the presidents of the colleges, or their designees.

Form. The index shall reference final orders, declaratory orders, interpretive statements, or policy statements by one or more of the following classifications: Date of implementation, organizational unit, or subject matter.

Requests for access to indexes. Information regarding public inspection of indexes, their location, and a schedule for revising and updating these indexes can be obtained by contacting the public records officer.

(3) **Organization of records.** The Seattle ((Community)) College District VI will maintain its records in a reasonably organized manner. Seattle ((Community)) College District VI will take reasonable actions to protect records from damage and disorganization. A requestor shall not take Seattle ((Community)) College District VI records from Seattle ((Community)) College District VI offices without the permission of the public records officer or designee. A variety of records are available on the Seattle ((Community)) College District VI web site at www.seattlecolleges.edu. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) **Making a request for public records.**

(a) Any person wishing to inspect or copy public records of the Seattle ((Community)) College District VI should make the request in writing on the Seattle ((Community))

College District VI request form, or by letter, fax, or e-mail addressed to the public records officer (SCCDPublicRecordsRequest@seattlecolleges.edu) and including the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any e-mail address;
- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to WAC 132F-168-060, standard photocopies will be provided at fifteen cents per page.

(c) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

AMENDATORY SECTION (Amending WSR 14-07-091, filed 3/18/14, effective 4/18/14)

WAC 132F-168-040 Review of denials of public records. (1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the appropriate vice-chancellor. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the Seattle ((Community)) College District VI's receipt of the petition, or within such other time as mutually agreed upon by the Seattle ((Community)) College District VI and the requestor.

(3) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the Seattle ((Community)) College District VI denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

AMENDATORY SECTION (Amending WSR 14-07-091, filed 3/18/14, effective 4/18/14)

WAC 132F-168-050 Exemptions. The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by Seattle ((Community)) College District VI for inspection and copying:

(1) The Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; the Uniform Trade Secrets Act, chapter 19.108 RCW; attorney-client privileged communications, RCW 5.60.060(2).

(2) Examination of individual files of Seattle ((Community)) College District students shall be in accordance with the provisions of district policy and procedure 380, student records.

(3) The Seattle ((Community)) College District VI is prohibited by statute from disclosing lists of individuals for commercial purposes.

(4) Pursuant to RCW 42.56.540, the Seattle ((Community)) College District VI reserves the right to seek to enjoin the examination of any specific record, the examination of which the district determines 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 14-07-091, filed 3/18/14, effective 4/18/14)

WAC 132F-168-060 Copying. (1) **Costs for paper copies.** There is no fee for inspecting public records. A requestor may obtain photocopies for fifteen cents per page. The district reserves the right to use outside vendors for large projects when an outside vendor can provide copies quicker or for less cost. The requestor will be required to pay the cost charged by the vendor.

Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The Seattle ((Community)) College District VI will not charge sales tax when it makes copies of public records.

(2) **Costs for electronic records.** The cost of scanning existing Seattle ((Community)) College District VI paper or other nonelectronic records is four cents per page. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee. A statement of the factors and the manner used to determine this charge is available from the public records officer.

If the requestor asks that the electronic records be provided on CD or DVD, the requestor will be charged the cost of the CD or DVD. If the electronic records are too large to be e-mailed through the Seattle ((Community)) College District

e-mail system, they will be provided on CD or DVD, and the requestor will be charged accordingly.

(3) **Costs of mailing.** The Seattle ((Community)) College District VI may also charge actual costs of mailing, including the cost of the shipping container.

(4) **Payment.** Payment may be made by cash, check, or money order to the Seattle ((Community)) College District VI.

AMENDATORY SECTION (Amending WSR 85-21-016, filed 10/7/85)

WAC 132F-200-010 Tenure. The board of trustees of Seattle ((Community)) College District VI reserves to itself the final determination of the granting of tenure to any academic employee of the district; the dismissal of a tenured academic employee; or the dismissal of a probationer during the term of his/her contract, pursuant to the policies of the board of trustees, the agreement with Seattle ((Community)) College federation of teachers and the laws of the state of Washington.

AMENDATORY SECTION (Amending Order 31, filed 9/20/76)

WAC 132F-325-010 Seattle ((Community)) College District environmental policy. (1) Capital projects proposed by Seattle ((Community)) College shall, to the fullest extent possible, be developed in a manner consistent with the provisions of the State Environmental Policy Act (SEPA) - Chapter 43.21C RCW, the council on environmental policy SEPA guidelines - Chapter 197-10 WAC, and the SBCCE SEPA implementation rules - WAC 131-24-030.

(2) The "responsible official" for the purposes of this policy, shall be the district president or the college presidents for their respective campuses.

AMENDATORY SECTION (Amending WSR 85-13-075, filed 6/19/85)

WAC 132F-419-010 Sexual harassment policy. Sexual harassment is an illegal activity and will not be tolerated in the Seattle ((Community)) College district. Students, faculty, and all other employees of the district shall be made aware that management will investigate all sexual harassment complaints. Awareness activities made available to all college groups will include appropriate training, workshops, and written materials providing information about sexual harassment, its prevention, and complaint procedures. Any employee or student who feels that she/he has been sexually harassed is encouraged to deal with the situation as outlined in the appropriate procedures.

In recognition of the fact that sex discrimination in the form of sexual harassment is a violation of section 703, Title VII of the Civil Rights Act of 1964 and chapter 49.60 RCW, which prohibits discrimination on the basis of race, color, religion, national origin, or sex, Seattle ((Community)) College District hereby declares that sexual harassment of students and/or staff by any member of the district community will not be tolerated.

(1) For purposes of this policy, sexual harassment will be defined as any behavior or action, either physical or verbal, which is sexual in nature and is uninvited, unwanted, or non-reciprocal((?)); and:

((+)) (a) Submission to it is either an implicit or explicit condition of employment or educational opportunity; or

((+)) (b) Submission to, or rejection of it is used as a basis for employment or educational decisions; or

((+)) (c) It has the purpose or effect of negatively interfering with the individual's work or educational performance or creating an intimidating, hostile, or offensive work or educational environment.

(2) It may include, but is not limited to the following:

((+)) (a) Unwelcome and/or repeated sexual advances.

((+)) (b) Offensive, disparaging remarks about one's gender or appearance.

((+)) (c) Remarks about one's physical appearance which implies sexual interest.

((+)) (d) Subtle pressure for sexual activity.

((+)) (e) Unnecessary offensive brushes or touches.

((+)) (f) Offensive sexual graffiti.

((+)) (g) Physical aggression such as pinching, patting, or grabbing.

((+)) (h) Sexual innuendos.

((+)) (i) Written communications with sexual overtones.

((+)) (j) Sexually offensive remarks disguised as humor.

((+)) (k) Obscene gestures.

AMENDATORY SECTION (Amending WSR 85-13-075, filed 6/19/85)

WAC 132F-419-040 Formal complaint procedures.

If no satisfactory resolution can be achieved at the informal level, the complainant may file a formal written complaint according to the Seattle ((Community)) College District affirmative action plan formal complaint procedures.

WSR 14-14-084

EXPEDITED RULES

STATE BOARD FOR COMMUNITY

AND TECHNICAL COLLEGES

[Filed June 30, 2014, 9:02 a.m.]

Title of Rule and Other Identifying Information: WAC 131-276-030 Description of organization of the state board for community and technical colleges.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING

AND THEY MUST BE SENT TO Beth Gordon, State Board for Community and Technical Colleges, 1300 Quince Street S.E., Olympia, WA 98504, AND RECEIVED BY September 2, 2014.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Office location update.

Reasons Supporting Proposal: To inform the public of our office location.

Statutory Authority for Adoption: RCW 28B.50.400.

Statute Being Implemented: RCW 28B.50.400.

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

Name of Proponent: State board for community and technical colleges, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Beth Gordon, 1300 Quince Street S.E., Olympia, WA 98504, (360) 704-4309.

June 30, 2014

Beth Gordon

Executive Assistant
and Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-22-062, filed 11/2/98, effective 12/3/98)

WAC 131-276-030 Description of organization of the state board for community and technical colleges. The state board for community and technical colleges is a state agency organized under RCW 28B.50.050. The administrative office of the board and its staff are located at ~~((the WEA Building, 319 East 7th Avenue))~~ 1300 Quince Street S.E., Olympia, Washington.

WSR 14-14-093

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed June 30, 2014, 11:08 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-463 WAC, Prohibiting the sale and/or movement of infested cherries.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARulesComments@agr.wa.gov, AND RECEIVED BY September 3, 2014.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this chapter is to provide specific notice regarding how cherries infested by cherry fruit fly larvae which cannot be disinfested are subject to destruction or, in the alternative, how infested cherries may be transported and used as allowed under RCW 15.08.070.

The proposed amendments to WAC 16-463-010:

- Recognize RCW 15.08.070 as providing a statutory exception for the transporting and use of cherry fruit fly infested cherries to be manufactured into by-products or to be shipped to a by-products plant.
- Provide clarification as to the Latin name for the specific cherry fruit fly larvae.

Reasons Supporting Proposal: Amending the rule will provide clarification on the exemption under RCW 15.08.070 that allows the transport [of] infested cherries to by-product plants. In addition, it will clearly state the name of the insect larvae, western cherry fruit fly (*Rhagoletis pomonella*), prohibited to ship, transfer, or offer for sale for human consumption.

Statutory Authority for Adoption: RCW 15.08.070 and chapter 34.05 RCW.

Statute Being Implemented: RCW 15.08.070.

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

Name of Proponent: Department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Ken Shank, Wenatchee, (509) 387-6529; and Enforcement: Brad Avy, Olympia, (360) 902-1827.

June 27, 2014

Brad Avy

Assistant Director

Commodity Inspection Division

AMENDATORY SECTION (Amending Order 1099, filed 8/30/68, effective 9/30/68)

WAC 16-463-010 Conditions for shipment, transfer and sale of cherries. Except as allowed under RCW 15.08.-070, no person shall ship or transfer from the area of production, or within the area of production, or offer for sale for human consumption, any cherries that are infested with live western cherry fruit fly (*Rhagoletis indifferens*) larvae.

WSR 14-14-096

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed June 30, 2014, 1:28 p.m.]

Title of Rule and Other Identifying Information: Chapter 16-445 WAC, Standards for Italian prunes.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARulesComments@agr.wa.gov, AND RECEIVED BY September 3, 2014.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will make the rules establishing standards for Italian prunes clear and usable by removing the question format, eliminating the charts, and including the definition of russetting.

Reasons Supporting Proposal: Amending the rule will provide clear explicit language written in plain talk which clearly defines the grade, pack, tolerances, and application of tolerances for Italian prunes packed and shipped from Washington.

Statutory Authority for Adoption: RCW 15.17.050 and chapter 34.05 RCW.

Statute Being Implemented: RCW 15.17.050.

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

Name of Proponent: Department of agriculture, government.

Name of Agency Personnel Responsible for Drafting and Implementation: Ken Shank, Wenatchee, (509) 387-6529; and Enforcement: Brad Avy, Olympia, (360) 902-1827.

June 27, 2014

Brad Avy

Assistant Director

Commodity Inspection Division

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

WAC 16-445-015 ((What)) Definitions ((are important to this chapter?)), The following definitions are important to this chapter and apply only to Italian prunes:

"Badly misshapen" means prunes so malformed or rough that they appear to be seriously damaged. Doubles that have approximately equal sized halves are not considered "badly misshapen."

"Culls" mean prunes that are immature, or seriously damaged by growth cracks, hail, insect pests, mechanical or other means.

"Department" means the Washington state department of agriculture.

"Diameter" means the greatest distance measured through the center of a prune at right angles to a line running from the stem to the blossom end.

"Fairly uniform size" means that the prunes in each packed container must not show a variation of more than one-fourth of an inch in diameter.

"Fairly well colored" means that at least three-fourths of the surface of a prune is purple color.

"Mature" means that a prune has reached the stage of maturity that will insure proper completion of the ripening process.

"Russetting" means an abnormal roughening and scarring of the surface of the fruit, which characteristically is smooth.

"Sunscald" means an apparent softening or collapse of a prune's flesh that is caused by the sun.

"Well colored" means that except for the portion of allowed russetting, ninety-five percent of the surface of a prune is purple color.

"Well-formed" means that a prune has the shape characteristic of the variety. Doubles are not considered well-formed.

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

WAC 16-445-025 ((What does "Damage" and "serious damage" mean?)) standards. ((The following table explains the differences between "damage" and "serious damage" as the terms apply to Italian prunes:

("Damage" means:	"Serious damage" means:
(1) Any injury or defect that materially affects the prune's appearance, or its edible or shipping quality.	(1) Any injury or defect that seriously affects the prune's appearance, or its edible or shipping quality.
Note: Internal growth cracks, cavities or gum spots are not considered damage.	
(2) Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is "damage":	(2) Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is "serious damage":
(a) Broken skins that are unhealed.	(a) Broken skins that are unhealed and more than one-eighth inch in diameter or depth.
Note:	Note:
<ul style="list-style-type: none"> Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not damage. Broken skins that have healed are considered scars. 	<ul style="list-style-type: none"> Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not serious damage. Broken skins that have healed are considered scars.

("Damage" means:	"Serious damage" means:
(b) Heat injury that is extensive or not light in color.	(b) Heat injury that causes any softening or dark discoloration of the flesh. Note: • Heat injury may cause internal or external discoloration, and may or may not be serious. • Heat injury should not be confused with sunscald, which causes softening or collapse of the tissue, and which is always classed as serious damage.
(c) External growth cracks, when: • There are more than one on a prune; or • One is deep; or • One is not well healed; or • One is more than 1/4 inch in length.	(c) External growth cracks that are: • Not well healed; or • More than 3/16 inch in depth; or • More than 1/2 inch in length.
(d) Sunburn that has: • Materially changed the normal color of a prune; or • Caused the skin to blister or crack.	(d) Sunburn that causes: • Decided flattening of a prune; or • Blistering, cracking, or noticeable brownish discoloration of the skin.
(e) Split pit that: • Causes a readily apparent crack at the stem end; or • Affects a prune's shape so it is not well formed.	(e) Split pit that: • Causes a crack at the stem end more than 3/16 inch in length, including any part that may be covered by the stem; or • Affects the shape to the extent that the fruit is badly misshapen.
(f) Hail marks, or other similar depressions or scars that:	(f) Hail marks that:

("Damage" means:	"Serious damage" means:
• Are not shallow or superficial; or • Total more than 3/8 inch in diameter; or • Break the skin.	• Are more than 3/16 inch deep; or • Total more than 1/2 inch in diameter.
(g) Drought spots or external gum spots that are more than 1/4 inch in diameter.	(g) Drought spots or external gum spots that total more than 1/2 inch in diameter.
(h) Russetting that is: • Not excessively rough but totals more than 1/10 of a prune's surface; or • Excessively rough and totals more than 1/4 inch in diameter.	(h) Russetting that is: • Not excessively rough but totals more than 1/3 of a prune's surface; or • Excessively rough and totals more than 1/2 inch in diameter.
(i) Scars: • Dark, rough or depressed scars totaling more than 1/4 inch in diameter. • Fairly smooth, superficial scars that total more than 1/2 inch in diameter. An example is fairly light discoloration such as that caused by handling or packing or by prunes rubbing against each other while on the tree. • Thorn and limb scratches that are not well healed, or that total more than 1/2 inch in length.)	(i) Scars that are: • Very dark or excessively rough and total more than 1/2 inch in diameter; or • More than 3/16 inches deep.

(1) "Damage" means any injury or defect that materially affects the prune's appearance, or its edible or shipping quality. Internal growth cracks, cavities or gum spots are not considered damage. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect is damage:

(a) Broken skins that are unhealed. Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not damage. Broken skins that have healed are considered scars.

(b) Heat injury that is extensive or not light in color.

(c) External growth cracks when there are more than one on a fruit, or when any growth crack is deep, not well healed or more than one-fourth inch in length.

(d) **Sunburn** which has materially changed the normal color of the fruit, or has caused the skin to blister or crack.

(e) **Split pit** which causes a readily apparent crack at the stem end, or which affects the shape to the extent that the fruit is not well-formed.

(f) **Hail marks** or other similar depressions or scars that are not shallow or superficial, or which aggregate more than three-eighths inch in diameter, or when the skin has been broken.

(g) **Drought spots or external gum spots** that are more than one-fourth inch in diameter.

(h) **Russeting** that is not excessively rough when aggregating more than ten percent of the fruit surface, or that is excessively rough when aggregating more than one-fourth inch in diameter.

(i) **Scars:** Dark, rough, or depressed scars which aggregate more than one-fourth inch in diameter. Fairly smooth, superficial scars, including fairly light discoloration such as is caused by handling or packing or by prunes rubbing against each other while on the tree, which aggregate more than one-half inch in diameter.

(2) "**Serious damage**" means any injury or defect that seriously affects the prune's appearance, or its edible or shipping quality. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is serious damage:

(a) **Broken skins** that are unhealed and more than one-eighth inch in diameter or depth, except those caused by pulled stems where the skin is not torn beyond the stem basin. Broken skins that have healed are considered scars.

(b) **Heat injury** that causes any softening or dark discoloration of the flesh. Heat injury may cause internal or external discoloration, and may or may not be serious. It should not be confused with sunscald, which causes softening or collapse of the tissue and which is always classed as serious damage.

(c) **External growth cracks** that are not well healed, or which are more than three-sixteenths inch in depth, or more than one-half inch in length.

(d) **Sunburn** that causes decided flattening of the fruit, or causes blistering, cracking, or noticeable brownish discoloration of the skin.

(e) **Split pit** that causes a crack at the stem end more than three-sixteenths inch in length, including any part which may be covered by the stem, or which affects the shape to the extent that the fruit is badly misshapen.

(f) **Hail marks** that are more than three-sixteenths inch in depth, or which aggregate more than one-half inch in diameter.

(g) **Drought spots or external gum spots** that total more than one-half inch in diameter.

(h) **Russeting** that is not excessively rough when aggregating more than one-third of the fruit surface, or that is excessively rough when aggregating more than one-half inch in diameter.

(i) **Scars** that are very dark or excessively rough and aggregate more than one-half inch in diameter, or which are more than three-sixteenths inch in depth.

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

WAC 16-445-040 ~~((What is a--))~~ **Washington No. 1 grade**~~((-- Italian prune?))~~, ~~((To be labeled--))~~ **Washington No. 1 grade**~~((,-- Italian))~~ shall consist of prunes ~~((must be))~~ that are:

- (1) Of one variety;
- (2) A purplish color over at least 2/3 of their surface;
- (3) Well-formed;
- (4) At least 1-1/4 inches in diameter unless otherwise specified;
- (5) Mature but not overripe, soft or shriveled;
- (6) Free from decay and sunscald; and
- (7) Free from damage caused by:
 - (a) Broken skins;
 - (b) Heat injury;
 - (c) Growth cracks;
 - (d) Sunburn;
 - (e) Split pits;
 - (f) Hail marks;
 - (g) Drought spots;
 - (h) Russeting;
 - (i) Scars; or
 - (j) Dirt, other foreign material, disease, insects or mechanical or other means.

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

WAC 16-445-045 ~~((What tolerances apply to Italian prunes?))~~ **Tolerances.** The following tolerances apply to prunes in any container and are adopted to allow for variations that are incidental to proper grading and handling~~((:))~~.

((1)) Tolerances that apply at the shipping point:	(2) Tolerances that apply to the destination or en-route to the destination:
(a) Other than color and size, no more than ten percent, by count, may fail to meet the grade requirements for defects.	(a) No more than eighteen percent, by count, may fail to meet grade requirements.
(b) No more than five percent, by count, may have serious damage defects.	(b) No more than ten percent, by count, may fail to meet grade requirements due to other permanent defects.
(e) No more than one percent, by count, may be decayed.	(e) No more than seven percent, by count, may have defects that cause serious damage, including no more than five percent for permanent defects and no more than two percent for decay.
(d) No more than ten percent, by count, may fail to meet the color requirements.	(d) No more than ten percent, by count, may fail to meet color requirements.

((1) Tolerances that apply at the shipping point:	(2) Tolerances that apply to the destination or en route to the destination:
(e) No more than ten percent, by count, may fail to meet the size specifications.	(e) No more than ten percent, by count, may fail to meet minimum size requirements.
(f) The combined tolerance for all defects must not exceed fifteen percent by count.)	

(1) Tolerances that apply at the shipping point: No more than ten percent of prunes, by count, may fail to meet the grade requirements for defects other than color and size. No more than five percent, by count, may have serious damage defects. No more than one percent, by count, may have decay. No more than ten percent, by count, may fail to meet the color requirements. No more than ten percent, by count, may fail to meet the size specifications. The combined tolerance for all defects must not exceed fifteen percent by count.

(2) Tolerances that apply to the destination or en route to the destination: No more than eighteen percent of prunes, by count, may fail to meet grade requirements. No more than ten percent of prunes, by count, may fail to meet grade requirements due to other permanent defects. No more than seven percent, by count, may have defects that cause serious damage, including no more than five percent for permanent defects and no more than two percent for decay. No more than ten percent, by count, may fail to meet color requirements. No more than ten percent, by count, may fail to meet minimum size requirements.

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

~~WAC 16-445-060 ((How does the department apply its Italian prune tolerances during an inspection?)) Application of tolerances. ((If the averages for an entire lot are within the specified tolerances, the following limitations apply to the contents of the individual containers in the lot. Based upon sample inspections, the individual containers in the lot:)) Provided, that the average for an entire lot of prunes are within the specified tolerances, the contents of individual containers in the lot, based on sample inspection, are subject to the following limitations. Individual containers:~~

- (1) May contain at least one defective and one under-sized prune.
- (2) Must have no more than one and one-half times the tolerance specified when a tolerance is ten percent or more.
- (3) Must have no more than double the tolerance specified when a tolerance is less than ten percent.

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

~~WAC 16-445-070 ((What are the "))) Standard pack((" requirements for Italian prunes?)), (1) A standard pack of Italian prunes must:~~

- (a) Contain prunes of fairly uniform size;
 - (b) Be tightly packed ((~~according to industry approved methods~~)); and
 - (c) Contain prunes in the top layer that are not noticeably superior in quality or size to those below the top layer.
- (2) In order to allow for variations incident to proper packing, no more than ten percent of the containers in any lot, by count, may fail to meet the standard pack requirements of this section.

WSR 14-14-126
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed July 2, 2014, 9:21 a.m.]

Title of Rule and Other Identifying Information: WAC 458-20-267 Annual reports for certain tax adjustments (Rule 267), explains the annual reporting requirements for tax adjustments provided to computer data centers, the aerospace industry, aluminum manufacturing, electrolytic processing, solar electric manufacturing, semiconductor manufacturing, newspaper industries, and government funded mental health services.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Mark E. Bohe, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, e-mail markbohe@dor.wa.gov, AND RECEIVED BY September 2, 2014.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule 267 is amended at the introduction in subsection (1) of the rule by changing the phrase "aerospace manufacturing" for clarity to "aerospace industry" and adding the phrase "government funded mental health services." Rule 267 is also amended to add the government funded mental health services tax preference to the annual report requirement. Further, subsection (3) of the rule is amended to update the filing requirements and correct caption grammatical errors. Last, subsection (4)(b)(ii)(B) is amended to update the department's contact address to obtain written approval to consolidate manufacturing sites.

Copies of draft rules are available for viewing and printing on our web site at Rules Agenda.

Reasons Supporting Proposal: Adds language in the introduction, adds clarifying language, updates filing information, updates filing addresses, and corrects grammatical errors in captions.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.32.600 and 82.32.-534.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Mark Bohe, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1574; Implementation: Dylan Waits, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1583; and Enforcement: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1599.

July 2, 2014
Dylan Waits
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-22-087, filed 11/1/10, effective 12/2/10)

WAC 458-20-267 Annual reports for certain tax adjustments. (1) **Introduction.** In order to take certain tax exemptions, credits, and rates ("tax adjustments"), taxpayers must file an annual report with the department of revenue (the "department") detailing employment, wages, and employer-provided health and retirement benefits. This section explains the reporting requirements for tax adjustments provided to computer data centers, the aerospace (~~(manufacturing))~~ industry, aluminum manufacturing, electrolytic processing, solar electric manufacturing, semiconductor manufacturing, ~~((and))~~ newspaper industries, and government funded mental health services. This section explains who is required to file annual reports, how to file reports, and what information must be included in the reports.

This section contains a number of examples. These examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The results of other situations must be determined after a review of all of the facts and circumstances.

(2) **Who is required to file the report?** A recipient of the benefit of the following tax adjustments must complete and file an annual report with the department:

(a) **Tax adjustments for the aerospace (~~(manufacturing))~~ industry:**

(i) The business and occupation ("B&O") tax rate provided by RCW 82.04.260(11) for manufacturers and processors for hire of commercial airplanes, component parts, and tooling specially designed for use in manufacturing commercial airplanes or components of such airplanes;

(ii) The B&O tax credit provided by RCW 82.04.4461 for qualified development aerospace product expenditures;

(iii) The B&O tax rate for FAR 145 Part certified repair stations under RCW 82.04.250(3);

(iv) The retail sales and use tax exemption provided by RCW 82.08.980 and 82.12.980 for constructing new buildings used for manufacturing superefficient airplanes;

(v) The leasehold excise tax exemption provided by RCW 82.29A.137 for facilities used for manufacturing super-efficient airplanes;

(vi) The property tax exemption provided by RCW 84.36.655 for property used for manufacturing superefficient airplanes; and

(vii) The B&O tax credit for property taxes and leasehold excise taxes paid on property used for manufacturing of commercial airplanes as provided by RCW 82.04.4463.

(viii) An annual report must be filed with the department for any person who takes any of the above tax adjustments of this subsection for employment positions in Washington; however, persons engaged in manufacturing commercial airplanes or components of such airplanes may report per manufacturing job site.

(b) **Tax adjustments for the aluminum smelter industry:**

(i) The B&O tax rate provided by RCW 82.04.2909 for aluminum smelters;

(ii) The B&O tax credit for property taxes provided by RCW 82.04.4481 for aluminum smelter property;

(iii) The retail sales and use tax exemption provided by RCW 82.08.805 and 82.12.805 for property used at aluminum smelters; and

(iv) The use tax exemption provided by RCW 82.12.022 (5) for the use of natural or manufactured gas;

(c) **Tax adjustment for the electrolytic processing industry.** The public utility tax exemption provided by RCW 82.16.0421 for sales of electricity to electrolytic processing businesses.

(d) **Tax adjustment for the solar electric manufacturing industry.** The B&O tax rate for manufacturers of solar energy systems using photovoltaic modules, or silicon components of such systems provided by RCW 82.04.294.

(e) **Tax adjustments for the semiconductor manufacturing and processing industry.**

(i) The B&O tax rate for manufacturers or processors for hire of semiconductor materials provided by RCW 82.04.-2404.

(ii) The sales and use tax exemptions for sales of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials provided by RCW 82.08.9651, 82.12.9651, and 82.12.970.

(f) **Tax adjustments for various industries.**

(i) The B&O tax rate for printing a newspaper, publishing a newspaper, or both provided by RCW 82.04.260(14).

(ii) The sales tax exemption for sales of eligible server equipment to be installed without intervening use in an eligible computer data center as provided by chapters 1 and 23, Laws of 2010 sp. sess.

(3) **How to file annual reports.**

(a) ~~((Required form. The department has developed a report form that must be used to complete the annual report unless a person obtains prior written approval from the department to file the annual report in an alternative format.~~

~~((b)))~~ **Electronic filing.** Reports must be filed electronically unless the department waives this requirement upon a showing of good cause. A report is filed electronically when the department receives the report in an electronic format. A person accesses electronic filing through their department "My Account." To file and submit electronically, go to <http://dor.wa.gov/TaxIncentiveReporting>.

(b) Required paper form. If the department waives the electronic filing requirement for a person upon a showing of good cause, then that person must use the annual report developed by the department unless that person obtains prior written approval from the department to file an annual report in an alternative format.

(c) How to obtain the form. Persons who have received a waiver of the electronic filing requirement from the department or who otherwise would like a paper copy of the report may obtain the report from the department's web site (www.dor.wa.gov). It may also be obtained from the department's district offices, by telephoning the telephone information center (800-647-7706), or by contacting the department's ~~((special programs))~~ taxpayer account administration division at:

Attn: Local Finance Team
 Department of Revenue
~~((Special Programs Division))~~
Taxpayer Account Administration
 Post Office Box ~~((47477))~~ 47476
 Olympia, WA 98504-~~((7477))~~7476
 Fax: 360-586-~~((2163))~~0527

(d) Special requirement for persons who did not file an annual report during the previous calendar year. If a person is a first-time filer or otherwise did not file an annual report with the department during the previous calendar year, the report must include information on employment, wages, and employer-provided health and retirement benefits for the two calendar years immediately preceding the due date of the report.

(e) Due date.

(i) For reports due in 2011 or later. For persons claiming any B&O tax credit, tax exemption, or tax rate listed under subsection (2) of this section, the report must be filed or postmarked by April 30th following any calendar year in which the person becomes eligible to claim the tax credit, tax exemption, or tax rate.

(ii) For reports due ~~((prior to))~~ in 2010 or earlier. For persons claiming any B&O tax credit, tax exemption, or tax rate listed under subsection (2) of this section, with the exception of the tax rate provided by RCW 82.04.2404, the report must be filed or postmarked by March 31st following any calendar year in which the tax credit, tax exemption, or tax rate is claimed. For persons claiming the tax rate provided by RCW 82.04.2404 the report must be filed or postmarked by April 30th following any calendar year in which the tax rate is claimed.

(iii) Due date extensions. The department may extend the due date for timely filing annual reports as provided in subsection (18) of this section.

(f) Examples.

(i) An aerospace firm begins taking the B&O tax rate provided by RCW 82.04.260(10) for manufacturers and processors for hire of commercial airplanes and component parts on October 1, 2010. By April 30, 2011, the aerospace firm must provide an annual report covering calendar years 2009 and 2010. If the aerospace firm continues to take the B&O tax rate provided by RCW 82.04.260(10) during calendar year

2011, a single annual report is due on April 30, 2012, covering calendar year 2011.

(ii) An aluminum smelter begins taking the B&O tax rate provided by RCW 82.04.2909 for aluminum smelters on July 31, 2010. By April 30, 2011, the aluminum smelter must provide an annual report covering calendar years 2009 and 2010. If the aluminum smelter continues to take the B&O tax rate provided by RCW 82.04.2909 during calendar year 2011, a single annual report is due on April 30, 2012, covering calendar year 2011.

(4) What employment positions are included in the annual report?

(a) General rule. Except as provided in (b) of this subsection, the report must include information detailing employment positions in the state of Washington.

(b) Alternative method. Persons engaged in manufacturing commercial airplanes or their components may report employment positions per job at the manufacturing site.

(i) What is a "manufacturing site"? For purposes of the annual report, a "manufacturing site" is one or more immediately adjacent parcels of real property located in Washington state on which manufacturing occurs that support activities qualifying for a tax adjustment. Adjacent parcels of real property separated only by a public road comprise a single site. A manufacturing site may include real property that supports nonqualifying activities such as administration offices, test facilities, warehouses, design facilities, and shipping and receiving facilities.

(ii)(A) If the person files per job at the manufacturing site, which manufacturing site is included in the annual report for the aerospace manufacturing industry tax adjustments? The location(s) where a person is manufacturing commercial airplanes or components of such airplanes within this state is the manufacturing site(s) included in the annual report. A "commercial airplane" has its ordinary meaning, which is an airplane certified by the Federal Aviation Administration ("FAA") for transporting persons or property, and any military derivative of such an airplane. A "component" means a part or system certified by the FAA for installation or assembly into a commercial airplane.

(B) Are there alternative methods for reporting separately for each manufacturing site? For purposes of completing the annual report, the department may agree to allow a person whose manufacturing sites are within close geographic proximity to consolidate its manufacturing sites onto a single annual report provided that the jobs located at the manufacturing sites have equivalent employment positions, wages, and employer-provided health and retirement benefits. A person may request written approval to consolidate manufacturing sites by contacting the department's ~~((special programs))~~ taxpayer account administration division at:

Attn: Local Finance Team
 Department of Revenue
~~((Special Programs Division))~~
Taxpayer Account Administration
 Post Office Box ~~((47477))~~ 47476
 Olympia, WA 98504-~~((7477))~~7476
 Fax: 360-586-~~((2163))~~0527

(c) Examples.

(i) ABC Airplanes, a company manufacturing FAA certified airplane landing gear, conducts activities at three locations in Washington state. ABC Airplanes is reporting tax under the B&O tax rate provided by RCW 82.04.260(10) for manufacturers and processors for hire of commercial airplanes and component parts. In Seattle, WA, ABC Airplanes maintains its corporate headquarters and administrative offices. In Spokane, WA, ABC Airplanes manufactures the brake systems for the landing gear. In Vancouver, WA, ABC Airplanes assembles the landing gear using the components manufactured in Spokane, WA. If filing per manufacturing site, ABC Airplanes must file separate annual reports for employment positions at its manufacturing sites in Spokane and Vancouver because these are the Washington state locations in which manufacturing occurs that supports activities qualifying for a tax adjustment.

(ii) Acme Engines, a company manufacturing engine parts, conducts manufacturing in five locations in Washington state. Acme Engines is reporting tax under the B&O tax rate provided by RCW 82.04.260(10) for manufacturers and processors for hire of commercial airplanes and component parts. It manufactures FAA certified engine parts at its Puyallup, WA location. Acme Engines' four other locations manufacture non-FAA certified engine parts. If filing per manufacturing site, Acme Engines must file an annual report for employment positions at its manufacturing site in Puyallup because it is the only location in Washington state in which manufacturing occurs that supports activities qualifying for a tax adjustment.

(iii) Tacoma Rivets, located in Tacoma, WA, manufactures rivets used in manufacturing airplanes. Half of the rivets Tacoma Rivets manufactures are FAA certified to be used on commercial airplanes. The remaining rivets Tacoma Rivets manufactures are not FAA certified and are used on military airplanes. Tacoma Rivets is reporting tax on its sales of FAA certified rivets under the B&O tax rate provided by RCW 82.04.260(10) for manufacturers and processors for hire of commercial airplanes and component parts. If filing per manufacturing site, Tacoma Rivets must file an annual report for employment positions at its manufacturing site in Tacoma because it is the location in Washington state in which manufacturing occurs that supports activities qualifying for a tax adjustment.

(iv) Dynamic Aerospace Composites is a company that only manufactures FAA certified airplane fuselage materials. Dynamic Aerospace Composites conducts activities at three separate locations within Kent, WA. Dynamic Aerospace Composites is reporting tax under the B&O tax rate provided by RCW 82.04.260(10) for manufacturers and processors for hire of commercial airplanes and component parts. If filing per manufacturing site, Dynamic Aerospace Composites must file separate annual reports for each of its three manufacturing sites.

(v) Worldwide Aerospace, an aerospace company, manufactures wing systems for commercial airplanes in twenty locations around the world, but none located in Washington state. Worldwide Aerospace manufactures wing surfaces in San Diego, CA. Worldwide Aerospace sells the wing systems to an airplane manufacturer located in Moses Lake, WA and

is reporting tax on these sales under the B&O tax rate provided by RCW 82.04.260(10) for sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person. Worldwide Aerospace is required to complete the annual report for any employment positions in Washington that are directly related to the qualifying activity.

(5) What jobs are included in the annual report?

(a) The annual report covers all full-time, part-time, and temporary jobs in this state or, for persons filing as provided in subsection (4)(b) of this section, at the manufacturing site as of December 31st of the calendar year for which an applicable tax adjustment is claimed. Jobs that support nonqualifying activities or support both nonqualifying and qualifying activities for a tax adjustment are included in the report if the job is located in the state of Washington or, for persons filing as provided in subsection (4)(b) of this section, at the manufacturing site.

(b) Examples.

(i) XYZ Aluminum, an aluminum smelter company, manufactures aluminum in Tacoma, WA. The company is reporting tax under the B&O tax rate provided by RCW 82.04.2909 for aluminum smelters. XYZ Aluminum's annual report for its Tacoma, WA location will include all of its employment positions in this state, including its nonmanufacturing employment positions.

(ii) AAA Tire Company manufactures tires at one manufacturing site located in Centralia, WA. The company is reporting tax under the B&O tax rate provided by RCW 82.04.260(10) for manufacturers and processors for hire of commercial airplanes and component parts. FAA certified tires comprise only 20% of the products it manufactures and are manufactured in a separate building at the manufacturing site. If filing under the method described in subsection (4)(b) of this section, AAA Tire Company must report all jobs at the manufacturing site, including the jobs engaged in the nonqualifying activities of manufacturing non-FAA certified tires.

(6) How is employment detailed in the annual report?

The annual report is organized by employee occupational groups, consistent with the United States Department of Labor's Standard Occupation Codes (SOC) System. The SOC System is a universal occupational classification system used by government agencies and private industries to produce comparable occupational data. The SOC classifies occupations at four levels of aggregation:

- (a) Major group;
- (b) Minor group;
- (c) Broad occupation; and
- (d) Detailed occupation.

All occupations are clustered into one of twenty-three major groups. The annual report uses the SOC major groups to detail the levels of employment, wages, and employer-provided health and retirement benefits at the manufacturing site. A detailed description of the SOC System is available by contacting the department's special programs division or by consulting the United States Department of Labor, Bureau of Labor Statistics online at www.bls.gov/soc. The annual report does not require names of employees.

(7) **What is total employment?** The annual report must state the total number of employees for each SOC major group that are currently employed on December 31st of the calendar year for which an applicable tax adjustment is taken. Total employment includes employees who are on authorized leaves of absences such as sick leave, vacation, disability leave, jury duty, military leave, regardless of whether those employees are receiving wages. Leaves of absences do not include separations of employment such as layoffs or reductions in force. Vacant positions are not included in total employment.

(8) **What are full-time, part-time and temporary employment positions?** An employer must provide information on the number of employees, as a percentage of total employment in the SOC major group, that are employed in full-time, part-time or temporary employment positions on December 31st of the calendar year for which an applicable tax adjustment is claimed. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(a) **Full-time and part-time employment positions.** In order for a position to be treated as full time or part time, the employer must intend for the position to be filled for at least fifty-two consecutive weeks or twelve consecutive months. A full-time position is a position that satisfies any one of the following minimum thresholds:

(i) Works thirty-five hours per week for fifty-two consecutive weeks;

(ii) Works four hundred fifty-five hours, excluding overtime, each quarter for four consecutive quarters; or

(iii) Works one thousand eight hundred twenty hours, excluding overtime, during a period of twelve consecutive months.

A part-time position is a position in which the employee works less than the hours required for a full-time position. In some instances, an employee may not be required to work the hours required for full-time employment because of paid rest and meal breaks, health and safety laws, disability laws, shift differentials, or collective bargaining agreements, but receives wages equivalent to a full-time job. If, in the absence of these factors, the employee would be required to work the number of hours for a full-time position to receive full-time wages, the position should be reported as a full-time employment position.

(b) **Temporary positions.** A temporary position is a position that is intended to be filled for period of less than twelve consecutive months. Positions in seasonal employment are temporary positions. Temporary positions include workers furnished by staffing companies regardless of the duration of the placement with the person required to file the annual report.

(c) **Examples.** Assume these facts for the following examples. National Airplane Inc. manufactures FAA certified navigation systems at a manufacturing site located in Tacoma, WA. National Airplane Inc. is claiming all the tax adjustments available for manufacturers and processors for hire of commercial airplanes and component parts. National Airplane Inc. employs one hundred people. Seventy-five of the employees work directly in the manufacturing operation and are classified as SOC Production Occupations. Five employees work in the engineering and design division and

are classified as SOC Architect and Engineering Occupations. Five employees are sales representatives and are classified as SOC Sales and Related Occupations. Five employees are service technicians and are classified as SOC Installation, Maintenance, and Repair Occupations. Five employees are administrative assistants and are classified as SOC Office and Administrative Support. Five executives are classified as SOC Management Occupations.

(i) Through a college work-study program, National Airplane Inc. employs six interns from September through June in its engineering department. The interns work twenty hours a week. The six interns are reported as temporary employees, and not as part-time employees, because the intern positions are intended to be filled for a period of less than twelve consecutive months. Assuming the five employees classified as SOC Architect and Engineering Occupations are full-time employees, National Airplane Inc. will report a total of eleven employment positions in SOC Architect and Engineering Occupations with 45% in full-time employment positions and 55% in temporary employment positions.

(ii) National Airplane Inc. manufactures navigation systems in two shifts of production. The first shift works eight hours from 8:00 a.m. to 5:00 p.m. Monday thru Friday. The second shift works six hours from 6:00 p.m. to midnight Monday thru Friday. The second shift works fewer hours per week (thirty hours) than the first shift (forty hours) as a pay differential for working in the evening. If a second shift employee transferred to the first shift, the employee would be required to work forty hours with no overall increase in wages. The second shift employees should be reported as full-time employment positions, rather than part-time employment positions.

(iii) On December 1st, ten National Airplane Inc. full-time employees classified as SOC Production Occupations take family and medical leave for twelve weeks. National Airplane Inc. hires five people to perform the work of the employees on leave. Because the ten employees classified as SOC Production Occupations are on authorized leave, National Airplane Inc. will include those employees in the annual report as full-time employment positions. The five people hired to replace the absent employees classified as SOC Production Occupations will be included in the report as temporary employees. National Airplane Inc. will report a total of eighty employment positions in SOC Production Occupations with 93.8% in full-time employment positions and 6.2% in temporary employment positions.

(iv) On December 1st, one full-time employee classified as SOC Sales and Related Occupations resigns from her position. National Airplane Inc. contracts with Jane Smith d/b/a Creative Enterprises, Inc. to finish an advertising project assigned to the employee who resigned. Because Jane Smith is an independent contractor, National Airplane Inc. will not include her employment in the annual report. Because the resignation has resulted in a vacant position, the total number of employment positions National Airplane Inc. will report in SOC Sales and Related Occupations is reduced to four employment positions.

(v) All National Airplane Inc. employees classified as SOC Office and Administrative Support Occupations work forty hours a week, fifty-two weeks a year. On November 1st,

one employee must limit the number of hours worked to thirty hours each week to accommodate a disability. The employee receives wages based on the actual hours worked each week. Because the employee works less than thirty-five hours a week and is not paid a wage equivalent to a full-time position, the employee's position is a part-time employment position. National Airplane Inc. will report a total of five employment positions in SOC Office and Administrative Support Occupations with 80% in full-time employment positions and 20% in part-time employment positions.

(9) **What are wages?** For the purposes of the annual report, "wages" means the base compensation paid to an individual for personal services rendered to an employer, whether denominated as wages, salary, commission, or otherwise. Compensation in the form of overtime, tips, bonuses, benefits (insurance, paid leave, meals, etc.), stock options, and severance pay are not "wages." For employees that earn an annual salary, hourly wages are determined by dividing annual salary by 2080. If an employee is paid by commission, hourly wages are determined by dividing the total amount of commissions paid during the calendar year by 2080.

(10) **How are wages detailed for the annual report?**

(a) An employer must provide information on the number of employees, as a percentage of the total employment in the SOC major group, paid a wage within the following five hourly wage bands:

- Up to \$10.00 an hour;
- \$10.01 an hour to \$15.00 an hour;
- \$15.01 an hour to \$20.00 an hour;
- \$20.01 an hour to \$30.00 an hour; and
- \$30.01 an hour or more.

Percentages should be rounded to the nearest 1/10th of 1% (XX.X%). For purposes of the annual report, wages are measured on December 31st of the calendar year for which an applicable tax adjustment is claimed.

(b) **Examples.** Assume these facts for the following examples. Washington Airplane Inc. manufactures FAA certified navigation systems at a manufacturing site located in Tacoma, WA. Washington Airplane Inc. is claiming all the tax adjustments available for manufacturers and processors for hire of commercial airplanes and component parts. Washington Airplane Inc. employs five hundred people at the manufacturing site, which constitutes its entire work force in this state. Four hundred employees engage in activities that are classified as SOC Production Occupations. Fifty employees engage in activities that are classified as SOC Architect and Engineer Occupations. Twenty-five employees are engaged in activities classified as SOC Management Occupations. Twenty employees are engaged in activities classified as SOC Office and Administrative Support Occupations. Five employees are engaged in activities classified as SOC Sales and Related Occupations.

(i) One hundred employees classified as SOC Production Occupations are paid \$12.00 an hour. Two hundred employees classified as SOC Production Occupations are paid \$17.00 an hour. One hundred employees classified as SOC Production Occupations are paid \$25.00 an hour. For SOC Production Occupations, Washington Airplane Inc. will report 25% of employment positions are paid \$10.01 an hour

to \$15.00 an hour; 50% are paid \$15.01 an hour to \$20.00 an hour; and 25% are paid \$20.01 an hour to \$30.00 an hour.

(ii) Ten employees classified as SOC Architect and Engineering Occupations are paid an annual salary of \$42,000; another ten employees are paid \$50,000 annually; and the remaining employees are all paid over \$70,000 annually. In order to report wages, the annual salaries must be converted to hourly amounts by dividing the annual salary by 2080 hours. For SOC Architect and Engineering Occupations, Washington Airplane Inc. will report 40% of employment positions are paid \$20.01 an hour to \$30.00 an hour and 60% are paid \$30.00 an hour or more.

(iii) All the employees classified as SOC Sales and Related Occupations are sales representatives that are paid on commission. They receive \$10.00 commission for each navigation system sold. Three sales representatives sell 2,500 navigation systems during the calendar year. Two sales representatives sell 3,500 navigation systems during the calendar year and receive a \$10,000 bonus for exceeding company's sales goals. In order to report wages, the employee's commissions must be converted to hourly amounts by dividing the total commissions by 2080 hours. Washington Airplane Inc. will report that 60% of employment positions classified as SOC Sales and Related Occupations are paid \$10.01 an hour to \$15.00 an hour. Because bonuses are not included in wages, Washington Airplane Inc. will report 40% of employment positions classified as SOC Sales and Related Occupations are paid \$15.01 an hour to \$20.00 an hour.

(iv) Ten of the employees classified as SOC Office and Administrative Support Occupations earn \$9.50 an hour. The remaining ten employees classified as SOC Office and Administrative Support Occupations earn wages between \$10.01 an hour to \$15.00 an hour. On December 1st, Washington Airplane Inc. announces that effective December 15th, all employees classified as SOC Office and Administrative Support Occupations will earn wages of at least \$10.50 an hour, but no more than \$15.00 an hour. Because wages are measured on December 31st, Washington Airplane Inc. will report 100% of employment positions classified as SOC Office and Administrative Support Occupations Sales and Related Occupations are paid \$10.01 an hour to \$15.00 an hour.

(11) **Reporting workers furnished by staffing companies.** For temporary positions filled by workers that are furnished by staffing companies, the person filling out the annual report must provide the following information:

- (a) Total number of staffing company employees furnished by staffing companies;
- (b) Top three occupational codes of all staffing company employees; and
- (c) Average duration of all staffing company employees.

(12) **What are employer-provided health benefits?** For purposes of the annual report, "health benefits" means compensation, not paid as wages, in the form of a health plan offered by an employer to its employees. A health plan that is equally available to employees and the general public is not an "employer-provided" health benefit.

(a) "Dental care services" means services offered or provided by health care facilities and health care providers relat-

ing to the prevention, cure, or treatment of illness, injury, or disease of human teeth, alveolar process, gums, or jaw.

(b) "Dental care plan" means a health plan for the purpose of providing for its employees or their beneficiaries' dental care services.

(c) "Health plan" means any plan, fund, or program established, maintained, or funded by an employer for the purpose of providing for its employees or their beneficiaries, through the purchase of insurance or otherwise, medical care and dental care services. Health plans include any "employee welfare benefit plan" as defined by the Employee Retirement Income Security Act (ERISA), any "health plan" or "health benefit plan" as defined in RCW 48.43.005, any self-funded multiple employer welfare arrangement as defined in RCW 48.125.010, any "qualified health insurance" as defined in Section 35 of the Internal Revenue Code, an "Archer MSA" as defined in Section 220 of the Internal Revenue Code, a "health savings plan" as defined in Section 223 of the Internal Revenue Code, any "health plan" qualifying under Section 213 of the Internal Revenue Code, governmental plans, and church plans.

(d) "Medical care services" means services offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(e) "Medical care plan" means a health plan for the purpose of providing for its employees or their beneficiaries' medical care services.

(13) **How are employer-provided health benefits detailed in the annual report?** The annual report is organized by SOC major group and by type of health plan offered to or with enrolled employees on December 31st of the calendar year for which an applicable tax adjustment is claimed.

(a) **Detail by SOC major group.** For each SOC major group, report the number of employees, as a percentage of total employment in the SOC major group, eligible to participate in an employer-provided medical care plan. An employee is "eligible" if the employee can currently participate in a medical care plan provided by the employer. Waiting periods, tenure requirements, minimum work hour requirements, preexisting conditions, and other limitations may prevent an employee from being eligible for coverage in an employer's medical care plan. If an employer provides multiple medical care plans, an employee is "eligible" if the employee can currently participate in one of the medical care plans. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(b) **Examples.**

(i) On December 31st, Acme Engines has one hundred employees classified as SOC Production Occupations. It offers these employees two medical care plans. Plan A is available to all employees at the time of hire. Plan B is available to employees after working ninety days. For SOC Production Occupations, Acme Engines will report 100% of its employees are eligible for employer-provided medical benefits because all of its employees are eligible for at least one medical care plan offered by Acme Engines.

(ii) Apex Aluminum has fifty employees classified as SOC Transportation and Material Moving Occupations, all of whom have worked for Apex Aluminum for over five years.

Apex Aluminum offers one medical care plan to its employees. Employees must work for Apex Aluminum for six months to participate in the medical care plan. On October 1st, Apex Aluminum hires ten new employees classified as SOC Transportation and Material Moving Occupations. For SOC Transportation and Material Moving Occupations, Apex Aluminum will report 83.3% of its employees are eligible for employer-provided medical benefits.

(c) **Detail by type of health plan.** The report also requires detailed information about the types of health plans the employer provides. If an employer has more than one type of health plan, it must report each health plan separately. If a person offers more than one of the same type of health plan as described in (c)(i) of this subsection, the person may consolidate the detail required in (c) through (e) of this subsection by using ranges to describe the information. The details include:

(i) A description of the type of plan in general terms such as self-insured, fee for service, preferred provider organization, health maintenance organization, health savings account, or other general description. The report does not require a person to disclose the name(s) of their health insurance carrier(s).

(ii) The number of employees eligible to participate in the health plan, as a percentage of total employment at the manufacturing site or as otherwise reported. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iii) The number of employees enrolled in the health plan, as a percentage of employees eligible to participate in the health plan at the manufacturing site or as otherwise reported. An employee is "enrolled" if the employee is currently covered by or participating in an employer-provided health plan. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iv) The average percentage of premium paid by employees enrolled in the health plan. "Premium" means the cost incurred by the employer to provide a health plan or the continuance of a health plan, such as amounts paid to health carriers or costs incurred by employers to self-insure. Employers are generally legally responsible for payment of the entire cost of the premium for enrolled employees, but may require enrolled employees to share in the cost of the premium to obtain coverage. State the amount of premium, as a percentage, employees must pay to maintain enrollment under the health plan. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(v) If necessary, the average monthly contribution to enrolled employees. In some instances, employers may make contributions to an employee health plan, but may not be aware of the percentage of premium cost borne by the employee. For example, employers may contribute to a health plan sponsored by an employee organization, or may sponsor a medical savings account or health savings account. In those instances where the employee's contribution to the health plan is unknown, an employer must report its average monthly contribution to the health plan by dividing the employer's total monthly costs for the health plan by the total number of employees enrolled in the health plan.

(vi) Whether legal spouses, state registered domestic partners, and unmarried dependent children can obtain cover-

age under the health plan and if there is an additional premium for such coverage.

(vii) Whether part-time employees are eligible to participate in the health plan.

(d) **Medical care plans.** In addition to the detailed information required for each health plan, report the amount of enrolled employee point of service cost-sharing for hospital services, prescription drug benefits, and primary care physician services for each medical care plan. If differences exist within a medical care plan, the lowest cost option to the enrolled employee must be stated in the report. For example, if employee point of service cost-sharing is less if an enrolled employee uses a network of preferred providers, report the amount of point of service cost-sharing using a preferred provider. Employee point of service cost-sharing is generally stated as a percentage of cost, a specific dollar amount, or both.

(i) "Employee point of service cost-sharing" means amounts paid to health carriers directly providing medical care services, health care providers, or health care facilities by enrolled employees in the form of copayments, co-insurance, or deductibles. Copayments and co-insurance mean an amount specified in a medical care plan which is an obligation of enrolled employees for a specific medical care service which is not fully prepaid. A deductible means the amount an enrolled employee is responsible to pay before the medical care plan begins to pay the costs associated with treatment.

(ii) "Hospital services" means covered in-patient medical care services performed in a hospital licensed under chapter 70.41 RCW.

(iii) "Prescription drug benefit" means coverage to purchase a thirty-day or less supply of generic prescription drugs from a retail pharmacy.

(iv) "Primary care provider services" means non-emergency medical care services provided in an office setting by the employee's primary care provider.

(e) **Dental care plans.** In addition to the health plan information required for each dental care plan, the annual maximum benefit for each dental care plan must be stated in the report. Most dental care plans have an annual dollar maximum benefit. This is the maximum dollar amount a dental care plan will pay toward the cost of dental care services within a specific benefit period, generally one year. The enrolled employee is personally responsible for paying costs above the annual maximum.

(f) **Examples.**

(i) Assume the following facts for the following examples. Mosaic Aerospace employs one hundred employees and offers two medical care plans as health benefits to employees at the time of hire. Plan A is a managed care plan (HMO). Plan B is a fee for service medical care plan.

(A) Forty Mosaic Aerospace employees are enrolled in Plan A. It costs Mosaic Aerospace \$750 a month for each employee covered by Plan A. Enrolled employees must pay \$150 each month to participate in Plan A. If an enrolled employee uses its network of physicians, Plan A will cover 100% of the cost of primary care provider services with employees paying a \$10.00 copayment per visit. If an enrolled employee uses its network of hospitals, Plan A will cover 100% of the cost of hospital services with employees

paying a \$200 deductible. If an enrolled employee does not use a network provider, Plan A will cover only 50% of the cost of any service with a \$500 employee deductible. An enrolled employee must use a network of retail pharmacies to receive any prescription drug benefit. Plan A will cover the cost of prescription drugs with enrolled employees paying a \$10.00 copayment. If an enrolled employee uses the mail-order pharmacy option offered by Plan A, copayment for prescription drug benefits is not required.

Mosaic Aerospace will report Plan A separately as a managed care plan. One hundred percent of its employees are eligible to participate in Plan A. The percentage of eligible employees enrolled in Plan A is 40%. The percentage of premium paid by an employee is 20%. Mosaic Aerospace will also report that employees have a \$10.00 copayment for primary care provider services and a \$200 deductible for hospital services because this is the lowest cost option within Plan A. Mosaic Aerospace will report that employees have a \$10.00 copayment for prescription drug benefit. Mosaic Aerospace cannot report that employees do not have a prescription drug benefit copayment because "prescription drug benefit" is defined as coverage to purchase a thirty-day or less supply of generic prescription drugs from a retail pharmacy, not a mail-order pharmacy.

(B) Fifty Mosaic Aerospace employees are enrolled in Plan B. It costs Mosaic Aerospace \$1,000 a month for each employee covered by Plan B. Enrolled employees must pay \$300 a month to participate in Plan B. Plan B covers 100% of the cost of primary care provider services and 100% of the cost of prescription drugs with employees paying a \$200 annual deductible for each covered service. Plan B covers 80% of the cost of hospital services with employees paying a \$250 annual deductible.

Mosaic Aerospace will report Plan B separately as a fee for service medical care plan. One hundred percent of its employees are eligible to participate in Plan B. The percentage of eligible employees enrolled in Plan B is 50%. The percentage of premium paid by an employee is 30%. Mosaic Aerospace will also report that employees have a \$200 annual deductible for both primary care provider services and prescription drug benefits. Hospital services have a \$250 annual deductible and 20% co-insurance obligation.

(C) On December 1st, Mosaic Aerospace acquires General Aircraft Inc., a company claiming all the tax adjustments available for manufacturers and processors for hire of commercial airplanes and component parts. General Aircraft Inc. had fifty employees, all of whom were retained by Mosaic Aerospace. At General Aircraft Inc., employees were offered one managed care plan (HMO) as a benefit. The former General Aircraft Inc. employees will retain their current managed care plan until the following June when employees would be offered Mosaic Aerospace benefits. On December 31st, Mosaic Aerospace is offering employees two managed care plans. Mosaic Aerospace may report each managed care plan separately or may consolidate the detail required in (c) through (e) of this subsection for this type of medical care plan by using ranges to report the information.

(ii) Aero Turbines employs one hundred employees. It offers employees health savings accounts as a benefit to employees who have worked for the company for six months.

Aero Turbines established the employee health savings accounts with a local bank and makes available to employees a high deductible medical care plan to be used in conjunction with the account. Aero Turbines deposits \$500 a month into each employee's health savings account. Employees deposit a portion of their pretax earnings into a health savings account to cover the cost of primary care provider services, prescription drug purchases, and the high deductible medical care plan for hospital services. The high deductible medical care plan has an annual deductible of \$2,000 and covers 75% of the cost of hospital services. Sixty-six employees open health savings accounts. Four employees have not worked for Aero Turbines for six months.

Aero Turbines will report the medical care plan as a health savings account. Ninety-six percent of employees are eligible to participate in health savings accounts. The percentage of eligible employees enrolled in health savings accounts is 68.8%. Because the amount of employee deposits into their health savings accounts will vary, Aero Turbines will report the average monthly contribution of \$500 rather than the percentage of premium paid by enrolled employees. Because employees are responsible for covering their primary care provider services and prescription drugs costs, Aero Turbines will report that this health plan does not include these services. Because the high deductible medical care plan covers the costs of hospital services, Aero Turbines will report that the medical care plan has an annual deductible of \$2,000 and employees have 25% co-insurance obligation.

(14) What are employer-provided retirement benefits? For purposes of the annual report, "retirement benefits" mean compensation, not paid as wages, in the form of a retirement plan offered by an employer to its employees. A "retirement plan" means any plan, account, deposit, annuity, or benefit, other than a life insurance policy, that provides for retirement income or deferred income to employees for periods extending to the termination of employment or beyond. Retirement plans include pensions, annuities, stock bonus plans, employee stock ownership plans, profit sharing plans, self-employed retirement plans, individual retirement accounts, individual retirement annuities, and retirement bonds, as well as any other plan or program, without regard to its source of funding, and without regard to whether the retirement plan is a qualified plan meeting the guidelines established in the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code. A retirement plan that is equally available to employees and the general public is not an "employer-provided" retirement benefit.

(15) How are employer-provided retirement benefits detailed in the annual report? The annual report is organized by SOC major group and by type of retirement plans offered to employees or with enrolled employees on December 31st of the calendar year for which an applicable tax adjustment is claimed. Inactive or terminated retirement plans are excluded from the annual report. An inactive retirement plan is a plan that is not offered to new employees, but has enrolled employees, and neither enrolled employees nor the employer are making contributions to the retirement plan.

(a) Detail by SOC major group. For each SOC major group, report the number of employees, as a percentage of total employment in the SOC major group, eligible to partic-

ipate in an employer-provided retirement plan. An employee is "eligible" if the employee can currently participate in a retirement plan provided by the employer. Waiting periods, tenure requirements, minimum work hour requirements, and other limitations may prevent an employee from being eligible for coverage in an employer's retirement plan. If an employer provides multiple retirement plans, an employee is "eligible" if the employee can currently participate in one of the retirement plans. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(b) Examples.

(i) Lincoln Airplane has one hundred employees classified as SOC Production Occupations. Fifty employees were enrolled in defined benefit pension at the time of hire. All employees are eligible to participate in a 401(k) Plan. For SOC Production Occupations, Lincoln Airplane will report 100% of its employees are eligible for employer-provided retirement benefits because all of its employees are eligible for at least one retirement plan offered by Lincoln Airplane.

(ii) Fly-Rite Airplanes has fifty employees classified in SOC Computer and Mathematical Occupations. Fly-Rite Airplane offers a SIMPLE IRA to its employees after working for the company one year. Forty-five employees classified in SOC Computer and Mathematical Occupations have worked for the company more than one year. For SOC Computer and Mathematical Occupations, Fly-Rite Airplanes will report 90% of its employees are eligible for retirement benefits.

(c) Detail by retirement plan. The report also requires detailed information about the types of retirement plans an employer offers employees. If an employer offers multiple retirement plans, it must report each type of retirement plan separately. If an employer offers more than one of the same type of retirement plan, but with different levels of employer contributions, it may consolidate the detail required in (i) through (iv) of this subsection by using ranges to describe the information. The report includes:

(i) The type of plan in general terms such as 401(k) Plan, SEP IRA, SIMPLE IRA, cash balance pension, or defined benefit plan.

(ii) The number of employees eligible to participate in the retirement plan, as a percentage of total employment at the manufacturing site, or as otherwise reported. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iii) The number of employees enrolled in the retirement plan, as a percentage of employees eligible to participate in the retirement plan at the manufacturing site. An employee is "enrolled" if the employee currently participates in an employer-provided retirement plan, regardless of whether the employee has a vested benefit. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iv) The maximum benefit the employer will contribute into the retirement plan for enrolled employees. The maximum benefit an employer will contribute is generally stated as a percentage of salary, specific dollar amount, or both. This information is not required for a defined benefit plan meeting the qualification requirements of Employee Retirement Income Security Act (ERISA) that provides benefits according to a flat benefit, career-average, or final pay formula.

(d) Examples.

(i) General Airspace is a manufacturer of airplane components located in Centralia, WA. General Airspace employs one hundred employees. Fifty employees are eligible for and enrolled in a defined benefit pension with a flat benefit at the time of retirement. Twenty-five employees are eligible for and enrolled in a cash balance pension with General Airspace contributing 7% of an employee's annual compensation with a maximum annual contribution of \$10,000. All General Airspace employees can participate in a 401(k) Plan. Sixty-five employees are participating in the 401(k) Plan. General Airspace does not make any contributions into the 401(k) Plan. Five employees are former employees of United Skyways, a company General Airspace acquired. United Skyways employees were enrolled in a cash balance pension at the time of hire. When General Airspace acquired United Skyways, it did not terminate or liquidate the United Skyways cash balance plan. Rather, General Airspace maintains cash balance plan only for former United Skyways employees, allowing only interest to accrue to the plan.

(A) General Airspace will report that it offers three retirement plans - A defined benefit pension, a cash-balance pension, and a 401(k) Plan. General Airspace will not report the inactive cash balance pension it maintains for former United Skyways employees.

(B) For the defined benefit pension, General Airspace will report 50% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 100% are enrolled.

(C) For the cash-balance pension, General Airspace will report 25% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 100% are enrolled. General Airspace will report a maximum contribution of \$10,000 or 7% of an employee's annual compensation.

(D) For the 401(k) Plan, General Airspace will report 100% of its total employment positions are eligible to participate in the retirement plan. Of the employment positions eligible to participate, 65% are enrolled. General Airspace will report that it does not make any contributions into the 401(k) Plan.

(ii) Washington Alloys is an aluminum smelter located in Grandview, WA. Washington Alloys employs two hundred employees. Washington Alloys offers a 401(k) Plan to its employees after one year of hire. One hundred seventy-five employees have worked for Washington Alloys for one year or more. Of that amount, seventy-five have worked more than five years. Washington Alloys will match employee contributions up to a maximum 3% of annual compensation. If an employee has worked for Washington Alloys for more than five years, Washington Alloys will contribute 5% of annual compensation regardless of the employee's contribution. One hundred employees receive a 3% matching contribution from Washington Alloys. Fifty employees receive a contribution of 5% of annual compensation.

(A) Washington Alloys can report each 401(k) Plan separately - A 401(k) Plan with a maximum employer contribution of 3% of annual compensation and a 401(k) Plan with a maximum employer contribution to 5% of annual compensation. Alternatively, Washington Alloys can report that it

offers a 401(k) Plan with a maximum employer contribution ranging from 3% to 5% of annual compensation.

(B)(I) If Washington Alloys reports each 401(k) Plan separately, for the 401(k) Plan with a maximum employer contribution of 3% of annual compensation, Washington Alloys will report 50% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 100% are enrolled.

For the 401(k) Plan with a maximum employer contribution of 5% of annual compensation, Washington Alloys will report 37.5% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 66.6% are enrolled.

(II) If Washington Alloys consolidates its detailed information about its 401(k) Plans, it will report that 87.5% of its total employment positions are eligible to participate in 401(k) Plans. Of the employment positions eligible to participate in the 401(k) Plans, 85.7% are enrolled.

(16) Additional reporting for aluminum smelters and electrolytic processing businesses. For an aluminum smelter or electrolytic processing business, the annual report must indicate the quantity of product produced in this state during the time period covered by the report.

(17) Are annual reports confidential? Except for the additional information that the department may request which it deems necessary to measure the results of, or to determine eligibility for the tax preference, annual reports are not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(18) What are the consequences for failing to file a complete annual report?

(a) If a person claims a tax adjustment that requires an annual report under this section but fails to submit a complete report by the due date or any extension under RCW 82.32.-590 the amount of the tax adjustment claimed for the previous calendar year becomes immediately due and payable. Interest, but not penalties, will be assessed on these amounts due. The interest will be assessed at the rate provided for delinquent taxes provided for in RCW 82.32.050, retroactively to the date the tax preference was claimed, and accrues until the taxes for which the tax preference was claimed are repaid.

(b) **Complete annual report.** An annual report is complete if:

(i) The annual report is filed on the form required by this section; and

(ii) The person makes a good faith effort to substantially respond to all report questions required by this section.

The answer "varied," "various," or "please contact for information" is not a good faith response to a question.

(c) **Extension for circumstances beyond the control of the taxpayer.** If the department finds that the failure of a taxpayer to file an annual report by the due date was the result of circumstances beyond the control of the taxpayer, the department will extend the time for filing the report. The extension will be for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

In making a determination whether the failure of a taxpayer to file an annual report by the due date was the result of circumstances beyond the control of the taxpayer, the department will apply the provisions adopted by the department in WAC 458-20-228 for the waiver or cancellation of penalties when the underpayment of untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

(d) **One-time only extension.** A taxpayer who fails to file an annual report required under this section by the due date of the report is entitled to an extension of the due date. A request for an extension under this subsection must be made in writing to the department.

(i) To qualify for an extension, a taxpayer must have filed all annual reports and surveys, if any, due in prior years by their respective due dates, beginning with annual reports and surveys due in the calendar year 2010.

(ii) An extension is for ninety days from the original due date of the annual report.

(iii) No taxpayer may be granted more than one ninety-day extension.

WSR 14-14-127
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed July 2, 2014, 9:27 a.m.]

Title of Rule and Other Identifying Information: WAC 458-12-010 Definition—Property—Real, this rule provides guidance as to what is considered "real property," as that term is defined in RCW 84.04.090.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jay Jetter, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7471, e-mail JayJ@dor.wa.gov, AND RECEIVED BY September 2, 2014.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule currently provides incorrect citations to WAC 458-12-080 and 458-12-080(2). The department is proposing to correct these citations to WAC 458-12-060 and 458-12-060(4), respectively.

Copies of draft rules are available for viewing and printing on our web site at <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>.

Reasons Supporting Proposal: To correct an erroneous citation.

Statutory Authority for Adoption: RCW 84.08.010 and 84.08.070.

Statute Being Implemented: RCW 84.04.090.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Jay M. Jetter, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 534-1575; Implementation: Dylan Waits, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 534-1583; and Enforcement: Kathy Beith, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 534-1403.

July 2, 2014

Dylan Waits

Rules Coordinator

AMENDATORY SECTION (Amending WSR 93-08-049, filed 4/2/93, effective 5/3/93)

WAC 458-12-010 Definition—Property—Real. The term "real property" is defined in RCW 84.04.090; this definition should be consulted as a matter of course in all cases where the meaning of "real property" is in doubt. As there defined, "real property" includes but is not limited to the following:

- (1) All land, whether platted or unplatted.
- (2) All buildings, structures or permanent improvements built upon or attached to privately owned land.
- (3) Any fixture permanently affixed to and intended to be annexed to land or permanently affixed to and intended to be a component of a building, structure, or improvement on land, including machinery and equipment which become fixtures. Intent is to be gathered from all the surrounding circumstances at the time of annexation or installation of the item, including consideration of the nature of the item affixed, the manner of annexation and the purpose for which the annexation is made and is not to be gathered exclusively from the statements of the annex or, installer, or owner as to his or her actual state of mind.

(a) Such items shall be considered as permanently affixed when they are owned by the owner of the real property and:

- (i) They are securely attached to the real property; or
- (ii) Although not so attached, the item appears to be permanently situated in one location on real property and is adapted to use in the place it is located. For example a heavy piece of machinery or equipment set upon a foundation without being bolted thereto could be considered as affixed.

(b) Such items shall not be considered as affixed when they are owned separately from the real property unless an agreement specifically provides that such items are to be considered as part of the real property and are to be left with the real property when the occupant vacates the premises.

(c) Whenever the property taxable status of engines, machinery, equipment or fixtures is questioned by the assessor, the taxpayer may be required to list such items in the manner provided by chapter 84.40 RCW and WAC ((~~458-12-080~~) 458-12-060). The assessor shall make the determination of whether such property is real, and shall amend the taxpayer's statement as provided by WAC ((~~458-12-080(2))~~) 458-12-060(4).

(d) The explanations relating to fixtures under subsection (3) of this section are for purposes of clarification and may not answer the question as to whether an item is a fixture in all cases. In the event these explanations do not clearly indicate whether the item is a fixture, the numerous decisions of the Washington appellate courts regarding fixtures should be consulted.

(4) Privately owned easements and easement-like privileges, irrespective of whether the servient estate is public or privately owned land. However, easements of public service corporations other than railroads are personal property by reason of RCW 84.20.010.

(5) Leases of real property and leasehold interests therein having a term coextensive with the life of the tenant.

(6) Title to minerals in place which belongs to someone other than the surface owner. Such a title to minerals in place is a "mineral right" but must be distinguished from mineral leases and permits, which do not give title to minerals in place and which are intangible *personal* property. Mineral rights, as defined herein, are realty regardless of whether they were created by grant or reservation.

(7) Standing timber growing on land which belongs to the same person as the timber.

(8) Water rights, whether riparian, appropriative, or in the nature of an easement.

(9) Buildings and similar permanent improvements erected or made by a tenant on land which he does not own, and title to which is not reserved in the tenant by the lease or some other landlord-tenant agreement. Such buildings and improvements become the landlord's real property.

(10) All life estates in real property, whether created by grant or a reservation. A person has such a life estate when he has a right to the possession, occupation and use of a piece of realty, and to the crops, rents and profits produced by it, during his or her natural life.

(11) All possessory rights in realty which are coextensive with the natural life of their holder. Such possessory rights are analogous to leases, and since leases for life are realty, possessory rights for life are also realty.