

WSR 08-11-031
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed May 13, 2008, 9:59 a.m., effective June 13, 2008]

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

Purpose: The proposed changes are intended to describe the changes in program eligibility and scope of care. These rules:

- Add a definition for comprehensive family planning preventive medicine visit and delayed pelvic protocol;
- Change text throughout from "over-the-counter (OTC) birth control and supplies" to "over-the-counter (OTC) birth control drugs and supplies";
- Clearly identify who is eligible for family planning only and TAKE CHARGE;
- Add language under provider requirements in all sections (reproductive health, family planning only, and TAKE CHARGE) about "referring the client to available and affordable nonfamily planning primary care services, as needed."
- Strike the language under the covered section for "services for women" under reproductive health that said "cervical, vaginal, and breast cancer screening examination once per year as medically necessary" and expand the language to allow for an annual comprehensive family planning preventive medicine visit and a gynecological examination for any Medicaid client who is seeking and needing family planning. The department is also including the same language under the family planning only sections and TAKE CHARGE. Requirements for the comprehensive family planning preventive medicine visit is also included;
- Strike the following language under the covered section for services for men under reproductive health: "Prostate cancer screening for men, who are fifty years of age and older, once per year," and change it to read: "Prostate cancer screening for men, once per year, when medically necessary."
- Add screening and treatment for chlamydia and gonorrhea as part of the comprehensive family planning preventive medicine visit for women thirteen to twenty-five years of age under the covered section for family planning only and TAKE CHARGE;
- Update the definition for education, counseling and risk reduction intervention (ECRR) in the TAKE CHARGE section and remove the definition for intensive follow-up services.
- Include federal requirements for TAKE CHARGE eligibility which states that an applicant must provide proof of citizenship or qualified alien status and identity, must need family planning services, and must not be currently covered through another medical assistance program for family planning or have any health insurance that covers family planning.
- Change language under TAKE CHARGE program provider requirements that the "provider must document that each individual responsible for providing TAKE CHARGE services is trained on all aspects of the TAKE

CHARGE program." The word "document" replaces the word "assure."

- Add "*within seven working days of receipt*" to the existing requirement for TAKE CHARGE providers to forward the client's medical ID card to them;
- Include language in the TAKE CHARGE section about "informing the client of their right to see any TAKE CHARGE provider within the state."
- Incorporate into rule current policy that abortions and other pregnancy-related services are not covered under the TAKE CHARGE program.
- Change the language under the TAKE CHARGE - good cause exemption section from TAKE CHARGE applicants who are either adolescents or young adults, to "eighteen years of age or younger" and change domestic violence victims to those "domestic violence victims who depend on their spouse's insurance...."
- Identify when TAKE CHARGE providers are *exempt* from billing third party [parties].

Citation of Existing Rules Affected by this Order: Amending WAC 388-532-050, 388-532-100, 388-532-110, 388-532-120, 388-532-520, 388-532-530, 388-532-700, 388-532-710, 388-532-720, 388-532-730, 388-532-740, 388-532-750, 388-532-760, 388-532-780, and 388-532-790.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.800.

Adopted under notice filed as WSR 08-05-095 on February 15, 2008.

A final cost-benefit analysis is available by contacting Maureen Considine, FP/TC Program Manager, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 725-1652, fax (360) 586-9727, e-mail consicm@dshs.wa.gov.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 15, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 15.

Date Adopted: May 12, 2008.

Robin Arnold-Williams
 Secretary

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-050 Reproductive health services—Definitions. The following definitions and those found in WAC 388-500-005, Medical definitions, apply to this chapter.

"Complication"—A condition occurring subsequent to and directly arising from the family planning services received under the rules of this chapter.

"Comprehensive family planning preventive medicine visit"—For the purposes of this program, is a comprehensive, preventive, contraceptive visit which includes:

- An age and gender appropriate history and examination offered to female Medicaid clients who are at-risk for unintended pregnancies;

- Education and counseling for risk reduction (ECRR) regarding the prevention of unintended pregnancy; and

- For family planning only and TAKE CHARGE clients, routine gonorrhea and chlamydia testing for women thirteen through twenty-five years of age only.

This preventive visit may be billed only once every twelve months, per client, by a department-contracted TAKE CHARGE provider and only for female clients needing contraception.

"Contraception"—Preventing pregnancy through the use of contraceptives.

"Contraceptive"—A device, drug, product, method, or surgical intervention used to prevent pregnancy.

"Delayed pelvic protocol"—The practice of allowing a woman to postpone a pelvic exam during a contraceptive visit to facilitate initiation or continuation of a hormonal contraceptive method.

"Department"—The department of social and health services.

"Department-approved family planning provider"—

A physician, advanced registered nurse practitioner (ARNP), or clinic that has:

- Agreed to the requirements of WAC 388-532-110;
- Signed a core provider agreement with the department;
- Been assigned a unique family planning provider number by the department; and
- ~~((Signed a special agreement that allows the provider))~~ Agreed to bill for family planning laboratory services provided to clients enrolled in a department-managed care plan through an independent laboratory certified through the Clinical Laboratory Improvements Act (CLIA).

"Family planning services"—Medically safe and effective medical care, educational services, and/or contraceptives that enable individuals to plan and space the number of children and avoid unintended pregnancies.

"Medical identification card"—The document the department uses to identify a client's eligibility for a medical program.

"Natural family planning"—~~((Also known as fertility awareness method))~~ Means methods such as observing, recording, and interpreting the natural signs and symptoms associated with the menstrual cycle to identify the fertile days of the menstrual cycle and avoid unintended pregnancies.

"Over-the-counter (OTC)"—See WAC 388-530-1050 for definition.

"Sexually transmitted disease infection (STD-I)"—~~((Is))~~ A disease or infection acquired as a result of sexual contact.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-100 Reproductive health services—Client eligibility. (1) The department covers limited reproductive health services for clients eligible for the following ~~((medical assistance programs))~~:

- (a) State children's health insurance program (SCHIP);
- (b) Categorically needy program (CNP);
- (c) General assistance unemployable (GAU) program;
- (d) Limited casualty program-medically needy program (LCP-MNP); and
- (e) Alcohol and Drug Abuse Treatment and Support Act (ADATSA) services.

(2) Clients enrolled in a department managed care ~~((plan))~~ organization (MCO) may self-refer outside their ~~((plan))~~ MCO for family planning services (excluding sterilizations for clients twenty-one years of age or older), abortions, and STD-I services to any of the following:

- (a) A department-approved family planning provider;
- (b) A department-contracted local health department/STD-I clinic; ~~((or))~~
- (c) A department-contracted provider for abortion services; or
- (d) A department-contracted pharmacy for:

- (i) Over-the-counter contraceptive drugs and supplies, including emergency contraception; and
- (ii) Contraceptives and STD-I related prescriptions from a department-approved family planning provider or department-contracted local health department/STD-I clinic.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-110 Reproductive health services—Provider requirements. To be ~~((reimbursed))~~ paid by the department for reproductive health services provided to eligible clients, physicians, ARNPs, licensed midwives, and department-approved family planning providers must:

- (1) Meet the requirements in chapter 388-502 WAC, Administration of medical programs—Provider rules;
- (2) Provide only those services that are within the scope of their licenses;
- (3) Educate clients on Food and Drug Administration (FDA)-approved prescription birth control methods and over-the-counter (OTC) birth control drugs and supplies and related medical services;
- (4) Provide medical services related to FDA-approved prescription birth control methods and OTC birth control drugs and supplies upon request;
- (5) Supply or prescribe FDA-approved prescription birth control methods and OTC birth control drugs and supplies upon request; ~~((and))~~
- (6) Refer the client to an appropriate provider if unable to meet the requirements of subsections (3), (4), and (5) of this section; and
- (7) Refer the client to available and affordable nonfamily planning primary care services, as needed.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-120 Reproductive health—Covered services. In addition to those services listed in WAC 388-531-0100 (~~(Physician's)~~) Physician-related services, the department covers the following reproductive health services:

(1) **Services for women:**

(a) ~~((Cervical, vaginal, and breast cancer screening examination once per year as medically necessary))~~ The department covers one of the following per client, per year as medically necessary:

(i) A gynecological examination, billed by a provider other than a TAKE CHARGE provider, which may include a cervical and vaginal cancer screening examination when medically necessary; or

(ii) One comprehensive family planning preventive medicine visit, billable by a TAKE CHARGE provider only. Under a delayed pelvic protocol, the comprehensive family planning preventive medicine visit may be split into two visits, per client, per year. The comprehensive family planning preventive medicine visit must be:

(A) Provided by one or more of the following TAKE CHARGE trained providers:

(I) A physician or physician's assistant (PA);

(II) An advanced registered nurse practitioner (ARNP);
or

(III) A registered nurse (RN), licensed practical nurse (LPN), a trained and experienced health educator, medical assistant, or certified nursing assistant when used for assisting and augmenting the clinicians listed in (I) and (II) in subsection (1) of this section.

(B) Documented in the client's chart with detailed information that allows for a well-informed follow-up visit.

(b) Food and Drug Administration (FDA) approved prescription contraception methods as identified in chapter 388-530 WAC, Pharmacy services.

(c) ~~Over-the-counter (OTC) ((contraceptives,))~~ family planning drugs, devices, and drug-related supplies without a prescription when the department determines it necessary for client access and safety ((+)as described in chapter 388-530 WAC,((Pharmacy services)) Prescription Drugs (Outpatient).

(d) Sterilization procedures that meet the requirements of WAC 388-531-1550, if ~~((it is))~~:

(i) Requested by the client; and

(ii) Performed in an appropriate setting for the procedure.

(e) Screening and treatment for sexually transmitted diseases-infections (STD-I), including laboratory tests and procedures.

(f) Education and supplies for FDA-approved contraceptives, natural family planning and abstinence.

(g) Mammograms for clients forty years of age and older, once per year;

(h) Colposcopy and related medically necessary follow-up services;

(i) Maternity-related services as described in chapter 388-533 WAC; and

(j) Abortion.

(2) **Services for men:**

(a) Office visits where the primary focus and diagnosis is contraceptive management and/or there is a medical concern;

(b) Over-the-counter (OTC) contraceptives, drugs and supplies (as described in chapter 388-530 WAC, ~~((Pharmacy services))~~ Prescription Drugs (Outpatient)).

(c) Sterilization procedures that meet the requirements of WAC 388-531-1550(1), if ~~((it is))~~:

(i) Requested by the client; and

(ii) Performed in an appropriate setting for the procedure.

(d) Screening and treatment for sexually transmitted diseases-infections (STD-I), including laboratory tests and procedures.

(e) Education and supplies for FDA-approved contraceptives, natural family planning and abstinence.

(f) Prostate cancer screenings for men ~~((who are fifty years of age and older))~~, once per year, when medically necessary.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-520 Family planning only program—Provider requirements. To be reimbursed by the department for services provided to clients eligible for the family planning only program, physicians, ARNPs, and/or department-approved family planning providers must:

(1) Meet the requirements in chapter 388-502 WAC, Administration of medical programs—Provider rules;

(2) Provide only those services that are within the scope of their licenses;

(3) Educate clients on Food and Drug Administration (FDA)-approved prescription birth control methods and over-the-counter (OTC) birth control drugs and supplies and related medical services;

(4) Provide medical services related to FDA-approved prescription birth control methods and ~~((over the counter))~~ OTC birth control drugs and supplies upon request;

(5) Supply or prescribe FDA-approved prescription birth control methods and ~~((over the counter))~~ OTC birth control drugs and supplies upon request; ~~((and))~~

(6) Refer the client to an appropriate provider if unable to meet the requirements of subsections (3), (4), and (5) of this section; and

(7) Refer the client to available and affordable nonfamily planning primary care services, as needed.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-530 Family planning only program—Covered services. The department covers the following services under the family planning only program:

(1) One of the following, per client, per year as medically necessary:

(a) One comprehensive family planning preventive medicine visit billable by a TAKE CHARGE provider only. Under a delayed pelvic protocol, the comprehensive family planning preventive medicine visit may be split into two visits, per cli-

ent, per year. The comprehensive family planning preventive medicine visit must be:

(I) Provided by one or more of the following TAKE CHARGE trained providers:

(A) Physician or physician's assistant (PA);

(B) An advanced registered nurse practitioner (ARNP);

or

(C) A registered nurse (RN), licensed practical nurse (LPN), a trained and experienced health educator, medical assistant, or certified nursing assistant when used for assisting and augmenting the clinicians listed in subsection (A) and (B) of this section.

(II) Documented in the client's chart with detailed information that allows for a well-informed follow-up visit; or

(b) A gynecological examination (~~(that)~~), billed by a provider other than a TAKE CHARGE provider, which may include a cervical and vaginal cancer screening examination, one per year when it is:

~~((a))~~ (i) Provided according to the current standard of care; and

~~((b))~~ (ii) Conducted at the time of an office visit with a primary focus and diagnosis of family planning.

(2) An office visit directly related to a family planning problem, when medically necessary.

(3) Food and Drug Administration (FDA) approved prescription contraception methods meeting the requirements of chapter 388-530 WAC, (~~(Pharmacy services)~~) Prescription Drugs (Outpatient).

~~((3))~~ (4) Over-the-counter (OTC) (~~(contraceptive)~~), family-planning drugs, devices, and drug-related supplies without a prescription when the department determines it necessary for client access and safety (as described in chapter 388-530 WAC, (~~(Pharmacy services)~~) Prescription Drugs (Outpatient)).

~~((4))~~ (5) Sterilization procedure that meets the requirements of WAC 388-531-1550, if it is:

(a) Requested by the client; and

(b) Performed in an appropriate setting for the procedure.

~~((5))~~ (6) Screening and treatment for sexually transmitted diseases-infections (STD-I), including laboratory test and procedures only when the screening and treatment is:

(a) For chlamydia and gonorrhea as part of the comprehensive family planning preventive medicine visit for women thirteen to twenty-five years of age; or

(b) Performed in conjunction with an office visit that has a primary focus and diagnosis of family planning; and

~~((b))~~ (c) Medically necessary for the client to safely, effectively, and successfully use, or to continue to use, her chosen contraceptive method.

~~((6))~~ (7) Education and supplies for FDA-approved contraceptives, natural family planning and abstinence.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-700 TAKE CHARGE program—Purpose. TAKE CHARGE is a (~~(five-year)~~) family planning demonstration and research program approved by the federal government under a Medicaid program waiver. The purpose of

the TAKE CHARGE program is to make family planning services available to men and women with incomes at or below two hundred percent of the federal poverty level. (~~(TAKE CHARGE is approved by the federal government under a Medicaid program waiver and runs from July 1, 2001, through June 30, 2006 (unless terminated or extended prior to June 30, 2006).))~~ See WAC 388-532-710 for a definition of TAKE CHARGE.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-710 TAKE CHARGE program—Definitions. The following definitions and those found in WAC 388-500-0005 medical definitions and WAC 388-532-050 apply to the (~~(medical assistance administration's (MAA's))~~) department's TAKE CHARGE program.

"Ancillary services"—Those family planning services provided to TAKE CHARGE clients by (~~(MAA's)~~) department-contracted providers who are not TAKE CHARGE providers. These services include, but are not limited to, family planning pharmacy services, family planning laboratory services and sterilization (~~(surgical)~~) services.

"Application assistance"—The process a TAKE CHARGE provider follows in helping a client to complete and submit an application to (~~(MAA)~~) the department for the TAKE CHARGE program.

"Education, counseling and risk reduction intervention" or "ECRR"—(~~(A stand alone department designated service, specifically intended for clients at higher risk of contraceptive failure, that strengthen a client's decision making skills to make the best choice of contraceptive method and reduce the risk of unintended pregnancy. ECRR services must include:~~

(1) Helping the client critically evaluate which contraceptive method is most acceptable and can be used most effectively by her/him.

(2) Assessing and addressing other client personal considerations, risk factors (including sexually transmitted infections), and behaviors that impact her/his use of contraception.

(3) Facilitating a discussion of the male role in successful use of chosen contraceptive method, as appropriate.

(4) Facilitating contingency planning (the back-up method) regarding the chosen contraceptive method, including planning for emergency contraception.

(5) Scheduling a follow-up appointment as medically necessary for birth control evaluation for the safe, effective and successful use of the client's chosen contraceptive method and to reinforce positive contraceptive and other self protective behaviors.

(6) If no contraceptive method is chosen, discussing the likelihood of a pregnancy and helping the client assess his/her emotional, physical, and financial readiness for pregnancy and/or parenting)) Client-centered education and counseling services designed to strengthen decision making skills and support a client's safe, effective and successful use of his or her chosen contraceptive method. For women, ECRR is part of the annual preventive medicine visit. For men, ECRR is a stand alone service for those men seeking

family planning services and whose partners are at moderate to high risk of unintended pregnancy.

~~("Intensive follow up services" or "IFS"—Those supplemental services specified in some TAKE CHARGE provider contracts that support clients in the successful use of contraceptive methods. Department-selected TAKE CHARGE providers perform IFS as part of the research component of the TAKE CHARGE program (see WAC 388-532-730 (1)(f)).)~~

"TAKE CHARGE"—The department's ~~((five-year))~~ demonstration and research program approved by the federal government under a Medicaid program waiver to provide family planning services.

"TAKE CHARGE provider"—A provider who is approved by the department to participate in TAKE CHARGE by:

- (1) Being a department-approved family planning provider; and
- (2) Having a supplemental TAKE CHARGE agreement to provide TAKE CHARGE family planning services to eligible clients under the terms of the federally approved Medicaid waiver for the TAKE CHARGE program.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-720 TAKE CHARGE program—Eligibility. (1) The TAKE CHARGE program is for men and women. To be eligible for the TAKE CHARGE program, an applicant must:

- (a) Be a United States citizen, U.S. National, or "qualified alien" as described in chapter 388-424 WAC and provide proof of citizenship or qualified alien status, and identity;
- (b) Be a resident of the state of Washington as described in WAC 388-468-0005;
- (c) Have income at or below two hundred percent of the federal poverty level as described in WAC 388-478-0075;
- (d) Need family planning services;
- (e) Apply voluntarily for family planning services with a TAKE CHARGE provider; and
- ~~((e) Need family planning services but have:~~
 - (i) ~~No family planning coverage through another medical assistance program; or~~
 - (ii) ~~Family planning coverage that does not cover one hundred percent of the applicant's chosen birth control))~~ (f) Not be currently covered through another medical assistance program for family planning or have any health insurance that covers family planning, except as provided in WAC 388-530-790.

(2) A client who is ~~((currently))~~ pregnant or sterilized is not eligible for TAKE CHARGE.

(3) A client is authorized for TAKE CHARGE coverage for one year from the date the department determines eligibility or for the duration of the demonstration and research program, whichever is shorter, as long as the criteria in subsection (1) and (2) of this section continue to be met. Upon reapplication for TAKE CHARGE by the client, the department may renew the coverage for additional periods of up to one year each, or for the duration of the demonstration and research program, whichever is shorter.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-730 TAKE CHARGE program—Provider requirements. (1) A TAKE CHARGE provider must:

- (a) Be a department-approved family planning provider as described in WAC 388-532-050;
- (b) Sign the supplemental TAKE CHARGE agreement to participate in the TAKE CHARGE demonstration and research program according to the department's TAKE CHARGE program guidelines;
- (c) Participate in the department's specialized training for the TAKE CHARGE demonstration and research program prior to providing TAKE CHARGE services. Providers must ~~((assure))~~ document that each individual responsible for providing TAKE CHARGE services is trained on all aspects of the TAKE CHARGE program;
- (d) Comply with the required general department and TAKE CHARGE provider policies, procedures, and administrative practices as detailed in the department's billing instructions and provide referral information to clients regarding available and affordable nonfamily planning primary care services; ~~((and))~~

(e) If requested by the department, participate in the research and evaluation component of the TAKE CHARGE demonstration and research program. ~~((If selected by the department for the research and evaluation component, the provider must accept assignment to either:~~

~~(i) A randomly selected group of providers that give intensive follow up service (IFS) to TAKE CHARGE clients under a TAKE CHARGE research component client services contract. See WAC 388-532-740(2) for a related limitation; or~~

~~(ii) A randomly selected control group of providers subject to a TAKE CHARGE research component client services contract.))~~

(f) Forward the client's medical identification card and TAKE CHARGE brochure to the client within seven working days of receipt unless otherwise requested in writing by the client;

(g) Inform the client of his or her right to seek services from any TAKE CHARGE provider within the state; and

(h) Refer the client to available and affordable non-family planning primary care services, as needed.

(2) Department providers (e.g., pharmacies, laboratories, surgeons performing sterilization procedures) who are not TAKE CHARGE providers may furnish family planning ancillary TAKE CHARGE services, as defined in this chapter, to eligible clients. The department reimburses for these services under the rules and fee schedules applicable to the specific services provided under the department's other programs.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-740 TAKE CHARGE program—Covered services for women. ~~((+))~~ The department covers the following TAKE CHARGE services for ~~((men and))~~ women:

~~((a)) (1) One session of application assistance per client, per year;~~

~~((b)) (2) Food and Drug Administration (FDA) approved prescription and nonprescription contraceptives as provided in chapter 388-530 WAC, Prescription Drugs (Outpatient);~~

~~((c)) (3) Over-the-counter (OTC) ~~(contraceptives,)~~ family planning drugs, devices, and drug-related supplies without a prescription when the department determines it necessary for client access and safety (as described in chapter ~~((388-538)) 388-530 WAC, ~~(Pharmacy services)~~ Prescription Drugs (Outpatient));~~~~

~~((d)) (4) ~~(Gynecological examination that may include a cervical and vaginal cancer screening exam, one per year when it is:~~~~

~~(i) Provided according to the current standard of care; and~~

~~(ii) Conducted at the time of an office visit with a primary focus and diagnosis of family planning.~~

~~(e) Education, counseling, and risk reduction (ECRR) intervention, specifically intended for clients at higher risk of contraceptive failure, that have identified or demonstrated risks of unintended pregnancy. MAA limits ECRR as follows:~~

~~(i) For women at risk of unintended pregnancy, limited to one ECRR service every ten months;~~

~~(ii) For men whose sexual partner is at risk of unintended pregnancy, limited to one ECRR service every twelve months;~~

~~(iii) Must be a minimum of thirty minutes in duration;~~

~~(iv) Must be appropriate and individualized to the client's needs, age, language, cultural background, risk behaviors, sexual orientation, and psychosocial history;~~

~~(v) Must be provided by one of the following TAKE CHARGE trained providers:~~

~~(A) An advanced registered nurse practitioner (ARNP);~~

~~(B) Registered nurse (RN), licensed practical nurse (LPN);~~

~~(C) Physician or physician's assistant (PA); or~~

~~(D) A trained and experienced health educator or medical assistant when used for assisting and augmenting the above listed clinicians.~~

~~(vi) Must be documented in the client's chart with detailed information that would allow for a well-informed follow-up visit;~~

~~(vii) A client who does not have identified or demonstrated risks of unintended pregnancy and who is not at increased risk of contraceptive failure is not eligible for ECRR.~~

~~((f)) One comprehensive family planning preventive medicine visit billable by a TAKE CHARGE provider only. Under a delayed pelvic protocol, the comprehensive family planning preventive medicine visit may be split into two visits, per client, per year. The comprehensive family planning preventive medicine visit must be:~~

~~(a) Provided by one or more of the following TAKE CHARGE trained providers:~~

~~(i) Physician or physician's assistant (PA);~~

~~(ii) An advanced registered nurse practitioner (ARNP);~~

~~or~~

~~(iii) A registered nurse (RN), licensed practical nurse (LPN), a trained and experienced health educator, medical assistant, or certified nursing assistant when used for assisting and augmenting the above listed clinicians.~~

~~(b) Documented in the client's chart with detailed information that allows for a well-informed follow-up visit.~~

~~(5) Sterilization procedure that meets the requirements of WAC 388-531-1550, if the service is:~~

~~(i) Requested by the TAKE CHARGE client; and~~

~~(ii) Performed in an appropriate setting for the procedure.~~

~~((g)) (6) Screening and treatment for sexually transmitted diseases-infections (STD-I), including laboratory tests and procedures, only when the screening and treatment is:~~

~~((i)) (a) For chlamydia and gonorrhea as part of the comprehensive family planning preventive medicine visit for women thirteen to twenty-five years of age; or~~

~~(b) Performed in conjunction with an office visit that has a primary focus and diagnosis of family planning; and~~

~~((ii)) (c) Medically necessary for the client to safely, effectively, and successfully use, or continue to use, his or her chosen contraceptive method.~~

~~((h)) (7) Education and supplies for FDA-approved contraceptives, natural family planning and abstinence.~~

~~((2) The department covers intensive follow-up services (IFS) for certain clients as part of the research component of the TAKE CHARGE demonstration and research program. Only those clients served by the department's randomly selected research sites receive IFS (see WAC 388-532-730 (1)(e)(i)). The specific elements of IFS are negotiated with each research site.)~~

~~(8) An office visit directly related to a family planning problem, when medically necessary.~~

NEW SECTION

WAC 388-532-745 TAKE CHARGE program—Covered services for men. The department covers the following TAKE CHARGE services for men:

(1) One session of application assistance per client, per year;

(2) Over-the-counter (OTC) contraceptives, drugs, and supplies (as described in chapter 388-530 WAC, Prescription Drugs (Outpatient));

(3) Sterilization procedure that meets the requirements of WAC 388-531-1550, if the service is:

(a) Requested by the TAKE CHARGE client; and

(b) Performed in an appropriate setting for the procedure.

(4) Screening and treatment for sexually transmitted diseases-infections (STD-I), including laboratory tests and procedures, only when the screening and treatment is related to, and medically necessary for, a sterilization procedure.

(5) Education and supplies for FDA-approved contraceptives, natural family planning and abstinence.

(6) One education and counseling session for risk reduction (ECRR) per client, every twelve months. ECRR must be:

(a) Provided by one or more of the following TAKE CHARGE trained providers:

(i) Physician or physician's assistant (PA);

(ii) An advanced registered nurse practitioner (ARNP);
or

(iii) A registered nurse (RN), licensed practical nurse (LPN), a trained and experienced health educator, medical assistant, or certified nursing assistant when used for assisting and augmenting the clinicians listed in subsection (i) and (ii) of this section; and

(b) Documented in the client's chart with detailed information that allows for a well-informed follow-up visit.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-750 TAKE CHARGE program—Non-covered services. The department does not cover the following medical services under the TAKE CHARGE program (unless those services are):

(1) Abortions and other pregnancy-related services; and

(2) Any other medical services, unless those services are:

(a) Performed in relation to a primary focus and diagnosis of family planning; and

~~((2))~~ (b) Medically necessary for the client to safely, effectively, and successfully use, or continue to use, his or her chosen contraceptive method.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-760 TAKE CHARGE program—Documentation requirements. In addition to the documentation requirements in WAC 388-502-0020, TAKE CHARGE providers must keep the following records:

(1) TAKE CHARGE ~~((preapplication worksheet))~~ application form(s) ((and application(s)));

(2) Signed supplemental TAKE CHARGE agreement to participate in the TAKE CHARGE program;

(3) Documentation of the department's specialized TAKE CHARGE training and/or in-house in-service TAKE CHARGE training for each individual responsible for providing TAKE CHARGE.

(4) Chart notes that reflect the primary focus and diagnosis of the visit was family planning;

(5) Contraceptive methods discussed with the client;

(6) Notes on any discussions of emergency contraception and needed prescription(s);

(7) The client's plan for the contraceptive method to be used, or the reason for no contraceptive method and plan;

(8) Documentation of the education, counseling and risk reduction (ECRR) service, if provided, ~~((including all of the required components as defined in WAC 388-532-710))~~ with sufficient detail that allows for follow-up;

(9) Documentation of referrals to or from other providers;

(10) A form signed by the client authorizing release of information for referral purposes, as necessary; ~~((and))~~

(11) The client's written and signed consent requesting that his or her medical identification card be sent to the TAKE CHARGE provider's office to protect confidentiality;

(12) A copy of the client's picture identification;

(13) A copy of the documentation used to establish United States citizenship or legal permanent residency; and

(14) If applicable, a copy of the completed DSHS sterilization consent form ~~((F))~~(DSHS 13-364 - available for download at [http://www.dshs.wa.gov/msa/forms/eforms.html\(\(F\)\)](http://www.dshs.wa.gov/msa/forms/eforms.html((F)))) (see WAC 388-531-1550).

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-780 TAKE CHARGE program—Reimbursement and payment limitations. (1) The department limits reimbursement under the TAKE CHARGE program to those services that:

(a) Have a primary focus and diagnosis of family planning as determined by a qualified licensed medical practitioner; and

(b) Are medically necessary for the client to safely, effectively, and successfully use, or continue to use, his or her chosen contraceptive method.

(2) The department reimburses providers for covered TAKE CHARGE services according to the department's published TAKE CHARGE fee schedule.

(3) ~~((3))~~ The department limits reimbursement for TAKE CHARGE ~~((intensive follow-up services (IFS) to those randomly selected research sites described in WAC 388-532-740(2). See WAC 388-532-730(1)(e)(i) for related information))~~ research and evaluation activities to selected research sites.

(4) Federally qualified health centers (FQHCs), rural health centers (RHCs), and Indian health providers who choose to become TAKE CHARGE providers must bill the department for TAKE CHARGE services without regard to their special rates and fee schedules. The department does not reimburse FQHCs, RHCs or Indian health providers under the encounter rate structure for TAKE CHARGE services.

(5) The department requires TAKE CHARGE providers to meet the billing requirements of WAC 388-502-0150 (billing time limits). In addition, all final billings and billing adjustments related to the TAKE CHARGE program must be completed no later than ~~((June 30, 2008, or no later than))~~ two years after the demonstration and research program terminates ~~((, whichever occurs first))~~. The department will not accept new billings or billing adjustments that increase expenditures for the TAKE CHARGE program after the cut-off date ~~((in this subsection)).~~

(6) The department does not cover inpatient services under the TAKE CHARGE program. However, inpatient charges may be incurred as a result of complications arising directly from a covered TAKE CHARGE service. If this happens, providers of TAKE CHARGE related inpatient services that are not otherwise covered by third parties or other medical assistance programs must submit to the department a complete report of the circumstances and conditions that caused the need for inpatient services for the department to consider payment under WAC 388-501-0165.

(7) The department requires a provider under WAC 388-501-0200 to seek timely reimbursement from a third party when a client has available third party resources. The exceptions to this requirement are described under WAC 388-501-0200 (2) and (3) and 388-532-790.

AMENDATORY SECTION (Amending WSR 05-24-032, filed 11/30/05, effective 12/31/05)

WAC 388-532-790 TAKE CHARGE program—Good cause exemption from billing third party insurance. (1) TAKE CHARGE applicants who are (~~either adolescents or young adults~~) eighteen years of age or younger and (~~who~~) depend on their parents' medical insurance, or individuals who are domestic violence victims who depend on their spouses or another's health insurance may request an exemption, due to "good cause," from the eligibility restrictions in WAC 388-532-720 (1)(f) and from the use of available third party family planning coverage ((due to "good cause.")). Under the TAKE CHARGE program, "good cause" means that use of the third party coverage would violate his or her (~~privacy~~) confidentiality because the third party:

(a) Routinely or randomly sends verification of services to the third party subscriber and that subscriber is other than the applicant; and/or

(b) Requires the applicant to use a primary care provider who is likely to report the applicant's request for family planning services to (~~another party~~) the subscriber.

(2) If subsection (1)(a) or (1)(b) of this section applies, the applicant is (~~considered~~) eligible for TAKE CHARGE without regard to the available third party family planning coverage.

WSR 08-11-047

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed May 15, 2008, 8:18 a.m., effective June 15, 2008]

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

Purpose: Chapter 388-475 WAC incorporates language published in chapter 388-511 WAC for SSI-related eligibility requirements. The repeal of this WAC section is appropriate because the language is duplicated in chapter 388-475 WAC. The repeal of this WAC section provides the opportunity to consolidate and improve the usability of rules concerning the financial eligibility requirements for SSI within chapter 388-475 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-511-1105; and amending WAC 388-106-0225, 388-106-0310, 388-106-0410, 388-106-0510, 388-106-0705, 388-500-0005, 388-503-0510, 388-513-1363, 388-513-1364, 388-513-1365, 388-515-1540, 388-561-0100, and 388-561-0300.

Statutory Authority for Adoption: RCW 34.05.353 (2)(d) and 74.08.090.

Other Authority: Chapters 74.09, 74.04 RCW.

Adopted under notice filed as WSR 08-05-106 on February 19, 2008.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 13, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 13, Repealed 1.

Date Adopted: May 9, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-21-020, filed 10/8/07, effective 11/8/07)

WAC 388-106-0225 How do I pay for MPC? (1) If you live in your own home, you do not participate toward the cost of your personal care services.

(2) If you live in a residential facility and are:

(a) An SSI beneficiary who receives only SSI income, you only pay for board and room. You are allowed to keep a personal needs allowance of forty dollars and twelve cents per month;

(b) An SSI beneficiary who receives SSI and SSA benefits, you only pay for board and room. You are allowed to keep a personal needs allowance of forty dollars and twelve cents. You keep an additional twenty dollar disregard from non-SSI income;

(c) An SSI-related person under WAC (~~388-511-1105~~) 388-475-0050, you may be required to participate towards the cost of your personal care services in addition to your board and room if your financial eligibility is based on the facility's state contracted rate described in WAC 388-513-1305. You are allowed to keep a personal needs allowance of forty dollars and twelve cents. You keep an additional twenty dollar disregard from non-SSI income; or

(d) A GA-X client in a residential care facility, you are allowed to keep a personal allowance of only thirty-eight dollars and eighty-four cents per month. The remainder of your grant must be paid to the facility.

(3) The department pays the residential care facility from the first day of service through the:

(a) Last day of service when the Medicaid resident dies in the facility; or

(b) Day of service before the day the Medicaid resident is discharged.

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0310 Am I eligible for COPES-funded services? You are eligible for COPES-funded services if you meet all of the following criteria. The department must assess your needs in CARE and determine that:

(1) You are age:

(a) Eighteen or older and blind or have a disability, as defined in WAC (~~388-511-1105~~) 388-475-0050; or

(b) Sixty-five or older.

(2) You meet financial eligibility requirements. This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC 388-515-1505, community options program entry system (COPEs).

(3) You:

(a) Are not eligible for Medicaid personal care services (MPC); or

(b) Are eligible for MPC services, but the department determines that the amount, duration, or scope of your needs is beyond what MPC can provide.

(4) Your CARE assessment shows you need the level of care provided in a nursing facility (or will likely need the level of care within thirty days unless COPEs services are provided) which is defined in WAC 388-106-0355(1).

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0410 Am I eligible for MNRW-funded services? You are eligible for MNRW-funded services if you choose to receive services in a residential facility and you meet all of the following criteria. The department must assess your needs, using CARE, and determine that:

(1) You are age:

(a) Eighteen or older and blind or have a disability, as defined in WAC ((388-511-1105)) 388-475-0050; or

(b) Sixty-five or older.

(2) You meet financial eligibility requirements. This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC 388-515-1540.

(3) You are not eligible for Medicaid personal care services (MPC) or COPEs.

(4) Your CARE assessment shows you need the level of care provided in a nursing facility (or will likely need the level of care within thirty days unless MNRW services are provided) which is defined in WAC 388-106-0355(1).

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0510 Am I eligible for MNIW-funded services? You are eligible for MNIW-funded services if you choose to receive services in your own home and you meet all of the following criteria. The department must assess your needs in CARE and determine that:

(1) You are age:

(a) Eighteen or older and blind or have a disability, as defined in WAC ((388-511-1105)) 388-475-0050; or

(b) Sixty-five or older.

(2) You meet financial eligibility requirements. This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC 388-515-1505;

(3) You are not eligible for Medicaid personal care services (MPC) or COPEs;

(4) Your CARE assessment shows you need the level of care provided in a nursing facility (or will likely need the

level of care within thirty days unless MNIW services are provided) which is defined in WAC 388-106-0355(1).

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-106-0705 Am I eligible for PACE services?

To qualify for Medicaid-funded PACE services, you must apply for an assessment by contacting your local home and community services office. The department will assess and determine whether you:

(1) Are age:

(a) Fifty-five or older, and blind or have a disability, as defined in WAC ((388-511-1105)) 388-475-0050, SSI-related eligibility requirements; or

(b) Sixty-five or older.

(2) Need nursing facility level of care as defined in WAC 388-106-0355;

(3) Live within the designated service area of the PACE provider;

(4) Meet financial eligibility requirements. This means the department will assess your finances, determine if your income and resources fall within the limits, and determine the amount you may be required to contribute, if any, toward the cost of your care as described in WAC 388-515-1505;

(5) Not be enrolled in any other Medicare or Medicaid prepayment plan or optional benefit; and

(6) Agree to receive services exclusively through the PACE provider and the PACE provider's network of contracted providers.

AMENDATORY SECTION (Amending WSR 98-15-066, filed 7/13/98, effective 7/30/98)

WAC 388-500-0005 Medical definitions. Unless defined in this chapter or in other chapters of the *Washington Administrative Code*, use definitions found in the *Webster's New World Dictionary*. This section contains definitions of words and phrases the department uses in rules for medical programs. Definitions of words used for both medical and financial programs are defined under WAC 388-22-030.

"Assignment of rights" means the client gives the state the right to payment and support for medical care from a third party.

"Base period" means the time period used in the limited casualty program which corresponds with the months considered for eligibility.

"Beneficiary" means an eligible person who receives:

*A federal cash Title XVI benefit; and/or

*State supplement under Title XVI; or

*Benefits under Title XVIII of the Social Security Act.

"Benefit period" means the time period used in determining whether Medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. The benefit period ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary may receive. Benefit period also means a "spell of illness" for Medicare payments.

"Cabulance" means a vehicle for hire designed and used to transport a physically restricted person.

"Carrier" means:

*An organization contracting with the federal government to process claims under Part B of Medicare; or

*A health insurance plan contracting with the department.

"Categorical assistance unit (CAU)" means one or more family members whose eligibility for medical care is determined separately or together based on categorical relatedness.

"Categorically needy" means the status of a person who is eligible for medical care under Title XIX of the Social Security Act. See WAC 388-503-0310, chapter 388-517 WAC and WAC 388-523-2305.

"Children's health program" means a state-funded medical program for children under age eighteen:

*Whose family income does not exceed one hundred percent of the federal poverty level; and

*Who are not otherwise eligible under Title XIX of the Social Security Act.

"Coinsurance-Medicare" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which Medicare does not pay. Under Part A, coinsurance is a per day dollar amount. Under Part B, coinsurance is twenty percent of reasonable charges.

"Community services office (CSO)" means an office of the department which administers social and health services at the community level.

"Couple" means, for the purposes of an SSI-related client, an SSI-related client living with a person of the opposite sex and both presenting themselves to the community as husband and wife. The department shall consider the income and resources of such couple as if the couple were married except when determining institutional eligibility.

"Deductible-Medicare" means an initial specified amount that is the responsibility of the client.

"Part A of Medicare-inpatient hospital deductible" means an initial amount of the medical care cost in each benefit period which Medicare does not pay.

"Part B of Medicare-physician deductible" means an initial amount of Medicare Part B covered expenses in each calendar year which Medicare does not pay.

"Delayed certification" means department approval of a person's eligibility for medicaid made after the established application processing time limits.

"Department" means the state department of social and health services.

"Early and periodic screening, diagnosis and treatment (EPSDT)" also known as the "healthy kids" program, means a program providing early and periodic screening, diagnosis and treatment to persons under twenty-one years of age who are eligible for Medicaid or the children's health program.

"Electronic fund transfers (EFT)" means automatic bank deposits to a client's or provider's account.

"Emergency medical condition" means the sudden onset of a medical condition (including labor and delivery) manifesting itself by acute symptoms of sufficient severity

(including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

*Placing the patient's health in serious jeopardy;

*Serious impairment to bodily functions; or

*Serious dysfunction of any bodily organ or part.

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

"Essential spouse" see **"spouse."**

"Extended care patient" means a recently hospitalized Medicare patient needing relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

"Garnishment" means withholding an amount from earned or unearned income to satisfy a debt or legal obligation.

"Grandfathered client" means:

*A noninstitutionalized person who meets all current requirements for Medicaid eligibility except the criteria for blindness or disability; and

*Was eligible for Medicaid in December 1973 as blind or disabled whether or not the person was receiving cash assistance in December 1973; and

*Continues to meet the criteria for blindness or disability and other conditions of eligibility used under the Medicaid plan in December 1973; and

*An institutionalized person who was eligible for Medicaid in December 1973 or any part of that month, as an inpatient of a medical institution or resident of an intermediate care facility that was participating in the Medicaid program and for each consecutive month after December 1973 who:

*Continues to meet the requirements for Medicaid eligibility that were in effect under the state's plan in December 1973 for institutionalized persons; and

*Remains institutionalized.

"Health maintenance organization (HMO)" means an entity licensed by the office of the insurance commissioner to provide comprehensive medical services directly to an eligible enrolled client in exchange for a premium paid by the department on a prepaid capitation risk basis.

"Healthy kids," see **"EPSDT."**

"Home health agency" means an agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence.

"Hospital" means an institution licensed as a hospital by the department of health.

"Income for an SSI-related client," means the receipt by an individual of any property or service which the client can apply either directly, by sale, or conversion to meet the client's basic needs for food, clothing, and shelter.

"Earned income" means gross wages for services rendered and/or net earnings from self-employment.

"Unearned income" means all other income.

"Institution" means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. This

includes medical facilities, nursing facilities, and institutions for the mentally retarded.

***"Institution-public"** means an institution, including a correctional institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

***"Institution for mental diseases"** means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases including medical attention, nursing care, and related services.

***"Institution for the mentally retarded or a person with related conditions"** means an institution that:

*Is primarily for the diagnosis, treatment or rehabilitation of the mentally retarded or a person with related conditions; and

*Provides, in a protected residential setting, on-going care, twenty-four hour supervision, evaluation, and planning to help each person function at the greatest ability.

***"Institution for tuberculosis"** means an institution for the diagnosis, treatment, and care of a person with tuberculosis.

***"Medical institution"** means an institution:

*Organized to provide medical care, including nursing and convalescent care;

*With the necessary professional personnel, equipment and facilities to manage the health needs of the patient on a continuing basis in accordance with acceptable standards;

*Authorized under state law to provide medical care; and

*Staffed by professional personnel. Services include adequate physician and nursing care.

***"Intermediary"** means an organization having an agreement with the federal government to process Medicare claims under Part A.

***"Legal dependent"** means a person for whom another person is required by law to provide support.

***"Limited casualty program (LCP)"** means a medical care program for medically needy, as defined under WAC 388-503-0320 and for medically indigent, as defined under WAC 388-503-0370.

***"Medicaid"** means the federal aid Title XIX program under which medical care is provided to persons eligible for:

*Categorically needy program as defined in WAC 388-503-0310 (and 388-511-1105); or

*Medically needy program as defined in WAC 388-503-0320.

***"Medical assistance."** See **"Medicaid."**

***"Medical assistance administration (MAA)"** means the unit within the department of social and health services authorized to administer the Title XIX Medicaid and the state-funded medical care programs.

***"Medical assistance unit (MAU)"** means one or more family members whose eligibility for medical care is determined separately or together based on financial responsibility.

***"Medical care services"** means the limited scope of care financed by state funds and provided to general assistance (GAU) and ADATSA clients.

***"Medical consultant"** means a physician employed by the department.

***"Medical facility"** see **"Institution."**

***"Medically indigent (MI)"** means a state-funded medical program for a person who has an emergency medical condition requiring hospital-based services.

***"Medically necessary"** is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction. There is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purpose of this section, "course of treatment" may include mere observation or, where appropriate, no treatment at all.

***"Medically needy (MN)"** is the status of a person who is eligible for a federally matched medical program under Title XIX of the Social Security Act, who, but for income above the categorically needy level, would be eligible as categorically needy. Effective January 1, 1996, an AFDC-related adult is not eligible for MN.

***"Medicare"** means the federal government health insurance program for certain aged or disabled clients under Titles II and XVIII of the Social Security Act. Medicare has two parts:

***"Part A"** covers the Medicare inpatient hospital, post-hospital skilled nursing facility care, home health services, and hospice care.

***"Part B"** is the supplementary medical insurance benefit (SMIB) covering the Medicare doctor's services, outpatient hospital care, outpatient physical therapy and speech pathology services, home health care, and other health services and supplies not covered under Part A of Medicare.

***"Medicare assignment"** means the method by which the provider receives payment for services under Part B of Medicare.

***"Month of application"** means the calendar month a person files the application for medical care. When the application is for the medically needy program, at the person's request and if the application is filed in the last ten days of that month, the month of application may be the following month.

***"Nursing facility"** means any institution or facility the department [of health] licenses as a nursing facility, or a nursing facility unit of a licensed hospital, that the:

*Department certifies; and

*Facility and the department agree the facility may provide skilled nursing facility care.

***"Outpatient"** means a nonhospitalized patient receiving care in a hospital outpatient or hospital emergency department, or away from a hospital such as in a physician's office, the patient's own home, or a nursing facility.

***"Patient transportation"** means client transportation to and from covered medical services under the federal Medicaid and state medical care programs.

***"Physician"** means a doctor of medicine, osteopathy, or podiatry who is legally authorized to perform the functions of the profession by the state in which the services are performed.

***"Professional activity study (PAS)"** means a compilation of inpatient hospital data, conducted by the commission

of professional and hospital activities, to determine the average length of hospital stay for patients.

"Professional review organization for Washington (PRO-W)" means the state level organization responsible for determining whether health care activities:

*Are medically necessary;

*Meet professionally acceptable standards of health care; and

*Are appropriately provided in an outpatient or institutional setting for beneficiaries of Medicare and clients of Medicaid and maternal and child health.

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

*Artificially replace a missing portion of the body;

*Prevent or correct physical deformity or malfunction;

or

*Support a weak or deformed portion of the body.

"Provider" or **"provider of service"** means an institution, agency, or person:

*Who has a signed agreement with the department to furnish medical care, goods, and/or services to clients; and

*Is eligible to receive payment from the department.

"Resources for an SSI-related client," means cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

*If an individual can reduce a liquid asset to cash, it is a resource.

*If an individual cannot reduce an asset to cash, it is not considered an available resource.

*Liquid means properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash, savings, checking accounts, stocks, mutual fund shares, mortgage, or a promissory note.

*Nonliquid means all other property both real and personal evaluated at the price the item can reasonably be expected to sell for on the open market.

"Retroactive period" means the three calendar months before the month of application.

"Spell of illness" see **"benefit period."**

"Spendedown" means the process by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the department.

"Spouse" means:

***"Community spouse"** means a person living in the community and married to an institutionalized person or to a person receiving services from a home and community-based waived program as described under chapter 388-515 WAC.

***"Eligible spouse"** means an aged, blind or disabled husband or wife of an SSI-eligible person, with whom such a person lives.

***"Essential spouse"** means, a husband or wife whose needs were taken into account in determining old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) client for December 1973, who continues to live in the home and to be the spouse of such client.

***"Ineligible spouse"** means the husband or wife of an SSI-eligible person, who lives with the SSI-eligible person and who has not applied or is not eligible to receive SSI.

***"Institutionalized spouse"** means a married person in an institution or receiving services from a home or community-based waived program.

***"Nonapplying spouse"** means an SSI-eligible person's husband or wife, who has not applied for assistance.

"SSI-related" means an aged, blind or disabled person not receiving an SSI cash grant.

"Supplemental security income (SSI) program, Title XVI" means the federal grant program for aged, blind, and disabled established by section 301 of the Social Security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

"Supplementary payment (SSP)" means the state money payment to persons receiving benefits under Title XVI, or who would, but for the person's income, be eligible for such benefits, as assistance based on need in supplementation of SSI benefits. This payment includes:

***"Mandatory state supplement"** means the state money payment to a person who, for December 1973, was a client receiving cash assistance under the department's former programs of old age assistance, aid to the blind and disability assistance; and

***"Optional state supplement"** means the elective state money payment to a person eligible for SSI benefits or who, except for the level of the person's income, would be eligible for SSI benefits.

"Third party" means any entity that is or may be liable to pay all or part of the medical cost of care of a medical program client.

"Title XIX" is the portion of the federal Social Security Act that authorizes grants to states for medical assistance programs. Title XIX is also called Medicaid.

"Transfer" means any act or omission to act when title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

*An intentional act or transfer; or

*Failure to act to preserve title to the resource.

"Value-fair market for an SSI-related person" means the current value of a resource at the price for which the resource can reasonably be expected to sell on the open market.

"Value of compensation received" means, for SSI-related medical eligibility, the gross amount paid or agreed to be paid by the purchaser of a resource.

"Value-uncompensated" means, for SSI-related medical eligibility, the fair market value of a resource, minus the amount of compensation received in exchange for the resource.

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

AMENDATORY SECTION (Amending WSR 05-07-097, filed 3/17/05, effective 4/17/05)

WAC 388-503-0510 How a client is determined "related to" a categorical program. (1) A person is related to the Supplemental Security Income (SSI) program if they are:

(a) Aged, blind, or disabled as defined in (~~WAC 388-511-1105(1) or~~) chapter 388-475 WAC; or

(b) Considered as eligible for SSI under (~~WAC 388-511-1105(5) or~~) chapter 388-475 WAC; or

(c) Children meeting the requirements of WAC 388-505-0210(5).

(2) A person or family is considered to be related to the temporary assistance for needy families (TANF) program if they:

(a) Meet the program requirements for the TANF cash assistance programs or the requirements of WAC 388-505-0220; or

(b) Would meet such requirements except that the assistance unit's countable income exceeds the TANF program standards in WAC 388-478-0065.

(3) Persons related to SSI or to TANF are eligible for categorically needy (CN) or medically needy (MN) medical coverage if they meet the other eligibility criteria for these medical programs. See chapters 388-475, 388-505 and 388-519 WAC for these eligibility criteria.

(4) Persons related to SSI or to TANF and who receive the related CN medical coverage have redetermination rights as described in WAC 388-503-0505(6).

AMENDATORY SECTION (Amending WSR 07-17-152, filed 8/21/07, effective 10/1/07)

WAC 388-513-1363 Evaluating the transfer of assets on or after May 1, 2006 for persons applying for or receiving long-term care (LTC) services. This section describes how the department evaluates asset transfers made on or after May 1, 2006 and their affect on LTC services. This applies to transfers by the client, spouse, a guardian or through an attorney in fact. Clients subject to asset transfer penalty periods are not eligible for LTC services. LTC services for the purpose of this rule include nursing facility services, services offered in any medical institution equivalent to nursing facility services, and home and community-based services furnished under a waiver program. Program of all-inclusive care of the elderly (PACE) and hospice services are not subject to transfer of asset rules. The department must consider whether a transfer made within a specified time before the month of application, or while the client is receiving LTC services, requires a penalty period.

• Refer to WAC 388-513-1364 for rules used to evaluate asset transfers made on or after April 1, 2003 and before May 1, 2006.

• Refer to WAC 388-513-1365 for rules used to evaluate asset transfer made prior to April 1, 2003.

(1) When evaluating the effect of the transfer of asset made on or after May 1, 2006 on the client's eligibility for LTC services the department counts sixty months before the month of application to establish what is referred to as the "look-back" period.

(2) The department does not apply a penalty period to transfers meeting the following conditions:

(a) The total of all gifts or donations transferred do not exceed the average daily private nursing facility rate in any month;

(b) The transfer is an excluded resource described in WAC 388-513-1350 with the exception of the client's home, unless the transfer of the home meets the conditions described in subsection (2)(d);

(c) The asset is transferred for less than fair market value (FMV), if the client can provide evidence to the department of one of the following:

(i) An intent to transfer the asset at FMV or other adequate compensation. To establish such an intent, the department must be provided with written evidence of attempts to dispose of the asset for fair market value as well as evidence to support the value (if any) of the disposed asset.

(ii) The transfer is not made to qualify for LTC services, continue to qualify, or avoid Estate Recovery. Convincing evidence must be presented regarding the specific purpose of the transfer.

(iii) All assets transferred for less than fair market value have been returned to the client.

(iv) The denial of eligibility would result in an undue hardship as described in WAC 388-513-1367.

(d) The transfer of ownership of the client's home, if it is transferred to the client's:

(i) Spouse; or

(ii) Child, who:

(A) Meets the disability criteria described in WAC 388-475-0050 (1)(b) or (c); or

(B) Is less than twenty-one years old; or

(C) Lived in the home for at least two years immediately before the client's current period of institutional status, and provided care that enabled the individual to remain in the home; or

(iii) Brother or sister, who has:

(A) Equity in the home, and

(B) Lived in the home for at least one year immediately before the client's current period of institutional status.

(e) The asset is transferred to the client's spouse or to the client's child, if the child meets the disability criteria described in WAC 388-475-0050 (1)(b) or (c);

(f) The transfer meets the conditions described in subsection (3), and the asset is transferred:

(i) To another person for the sole benefit of the spouse;

(ii) From the client's spouse to another person for the sole benefit of the spouse;

(iii) To trust established for the sole benefit of the individual's child who meets the disability criteria described in WAC 388-475-0050 (1)(b) or (c);

(iv) To a trust established for the sole benefit of a person who is sixty-four years old or younger and meets the disability criteria described in WAC (~~388-511-1105~~) 388-475-0050 (1)(b) or (c); or

(3) The department considers the transfer of an asset or the establishment of a trust to be for the sole benefit of a person described in subsection (1)(f), if the transfer or trust:

(a) Is established by a legal document that makes the transfer irrevocable;

(b) Provides that no individual or entity except the spouse, blind or disabled child, or disabled individual can benefit from the assets transferred in any way, whether at the time of the transfer or at any time during the life of the primary beneficiary; and

(c) Provides for spending all assets involved for the sole benefit of the individual on a basis that is actuarially sound based on the life expectancy of that individual or the term of the trust, whichever is less; and

(d) The requirements in subsection (2)(c) of this section do not apply to trusts described in WAC 388-561-0100 (6)(a) and (b) and (7)(a) and (b).

(4) The department does not establish a period of ineligibility for the transfer of an asset to a family member prior to the current period of long-term care service if:

(a) The transfer is in exchange for care services the family member provided the client;

(b) The client has a documented need for the care services provided by the family member;

(c) The care services provided by the family member are allowed under the medicaid state plan or the department's waiver services;

(d) The care services provided by the family member do not duplicate those that another party is being paid to provide;

(e) The FMV of the asset transferred is comparable to the FMV of the care services provided;

(f) The time for which care services are claimed is reasonable based on the kind of services provided; and

(g) Compensation has been paid as the care services were performed or with no more time delay than one month between the provision of the service and payment.

(5) The department considers the transfer of an asset in exchange for care services given by a family member that does not meet the criteria as described under subsection (4) as the transfer of an asset without adequate consideration.

(6) If a client or the client's spouse transfers an asset within the look-back period without receiving adequate compensation, the result is a penalty period in which the individual is not eligible for LTC services.

(7) If a client or the client's spouse transfers an asset on or after May 1, 2006, the department must establish a penalty period by adding together the total uncompensated value of all transfers made on or after May 1, 2006. The penalty period:

(a) For a LTC services applicant, begins on the date the client would be otherwise eligible for LTC services based on an approved application for LTC services or the first day after any previous penalty period has ended; or

(b) For a LTC services recipient, begins the first of the month following ten-day advance notice of the penalty period, but no later than the first day of the month that follows three full calendar months from the date of the report or discovery of the transfer; or the first day after any previous penalty period has ended; and

(c) Ends on the last day of the number of whole days found by dividing the total uncompensated value of the assets by the statewide average daily private cost for nursing facilities at the time of application or the date of transfer, whichever is later.

(8) If an asset is sold, transferred, or exchanged, the portion of the proceeds:

(a) That is used within the same month to acquire an excluded resource described in WAC 388-513-1350 does not affect the client's eligibility;

(b) That remain after an acquisition described in subsection (8)(a) becomes an available resource as of the first day of the following month.

(9) If the transfer of an asset to the client's spouse includes the right to receive a stream of income not generated by a transferred resource, the department must apply rules described in WAC 388-513-1330 (6) through (8).

(10) If the transfer of an asset for which adequate compensation is not received is made to a person other than the client's spouse and includes the right to receive a stream of income not generated by a transferred resource, the length of the penalty period is determined and applied in the following way:

(a) The total amount of income that reflects a time frame based on the actuarial life expectancy of the client who transfers the income is added together;

(b) The amount described in subsection (10)(a) is divided by the statewide average daily private cost for nursing facilities at the time of application; and

(c) A penalty period equal to the number of whole days found by following subsections (7)(a), (b), and (c).

(11) A penalty period for the transfer of an asset that is applied to one spouse is not applied to the other spouse, unless both spouses are receiving LTC services. When both spouses are receiving LTC services;

(a) We divide the penalty between the two spouses.

(b) If one spouse is no longer subject to a penalty (e.g. the spouse is no longer receiving institutional services or is deceased) any remaining penalty that applies to both spouses must be served by the remaining spouse.

(12) If a client or the client's spouse disagrees with the determination or application of a penalty period, that person may request a hearing as described in chapter 388-02 WAC.

(13) Additional statutes which apply to transfer of asset penalties, real property transfer for inadequate consideration, disposal of realty penalties, and transfers to qualify for assistance can be found at:

(a) RCW 74.08.331 Unlawful practices—Obtaining assistance—Disposal of realty;

(b) RCW 74.08.338 Real property transfers for inadequate consideration;

(c) RCW 74.08.335 Transfers of property to qualify for assistance; and

(d) RCW 74.39A.160 Transfer of assets—Penalties.

AMENDATORY SECTION (Amending WSR 03-20-059, filed 9/26/03, effective 10/27/03)

WAC 388-513-1364 Evaluating the transfer of an asset made on or after April 1, 2003 for long-term care (LTC) services. This section describes how the department evaluates the transfer of an asset made on or after April 1, 2003, by a client who is applying or approved for LTC services. The department must consider whether a transfer made within a specified time before the month of application

requires a penalty period in which the client is not eligible for these services. Refer to WAC 388-513-1365 for rules used to evaluate the transfer of an asset made before April 1, 2003. Refer to WAC 388-513-1363 for rules used to evaluate the transfer of an asset made on or after May 1, 2006.

(1) The department does not apply a penalty period to the following transfers by the client, if they meet the conditions described:

(a) Gifts or donations totaling one thousand dollars or less in any month;

(b) The transfer of an excluded resource described in WAC ((~~388-513-1360~~) 388-513-1350) with the exception of the client's home, unless the transfer of the client's home meets the conditions described in subsection (1)(d);

(c) The transfer of an asset for less than fair market value (FMV), if the client can provide evidence to the department of one of the following:

(i) An intent to transfer the asset at FMV or other adequate compensation;

(ii) The transfer is not made to qualify for LTC services;

(iii) The client is given back ownership of the asset;

(iv) The denial of eligibility would result in an undue hardship.

(d) The transfer of ownership of the client's home, if it is transferred to the client's:

(i) Spouse; or

(ii) Child, who:

(A) Meets the disability criteria described in WAC ((~~388-511-1105 (1)(b) or (e))~~) 388-475-0050 (1)(b) or (c); or

(B) Is less than twenty-one years old; or

(C) Lived in the home for at least two years immediately before the client's current period of institutional status, and provided care that enabled the client to remain in the home; or

(iii) Brother or sister, who has:

(A) Equity in the home; and

(B) Lived in the home for at least one year immediately before the client's current period of institutional status.

(e) The transfer of an asset, if the transfer meets the conditions described in subsection (4), and the asset is transferred:

(i) To another person for the sole benefit of the spouse;

(ii) From the client's spouse to another person for the sole benefit of the spouse;

(iii) To trust established for the sole benefit of the client's child who meets the disability criteria described in WAC ((~~388-511-1105 (1)(b) or (e))~~) 388-475-0050 (1)(b) or (c);

(iv) To a trust established for the sole benefit of a person who is sixty-four years old or younger and meets the disability criteria described in WAC ((~~388-511-1105 (1)(b) or (e))~~) 388-475-0050 (1)(b) or (c); or

(f) The asset is transferred to the client's spouse or to the client's child, if the child meets the disability criteria described in WAC ((~~388-511-1105 (1)(b) or (e))~~) 388-475-0050 (1)(b) or (c).

(2) The department does not establish a period of ineligibility for the transfer of an asset to a family member prior to the current period of institutional status, if:

(a) The transfer is in exchange for care services the family member provided the client;

(b) The client has a documented need for the care services provided by the family member;

(c) The care services provided by the family member are allowed under the Medicaid state plan or the department's waived services;

(d) The care services provided by the family member do not duplicate those that another party is being paid to provide;

(e) The FMV of the asset transferred is comparable to the FMV of the care services provided;

(f) The time for which care services are claimed is reasonable based on the kind of services provided; and

(g) Compensation has been paid as the care services were performed or with no more time delay than one month between the provision of the service and payment.

(3) The department considers the transfer of an asset in exchange for care services given by a family member that does not meet the criteria as described under subsection (2) as the transfer of an asset without adequate consideration.

(4) The department considers the transfer of an asset or the establishment of a trust to be for the sole benefit of a person described in subsection (1)(e), if the transfer or trust:

(a) Is established by a legal document that makes the transfer irrevocable;

(b) Provides that no individual or entity except the spouse, blind or disabled child, or disabled individual can benefit from the assets transferred in any way, whether at the time of the transfer or at any time during the life of the primary beneficiary; and

(c) Provides for spending all assets involved for the sole benefit of the individual on a basis that is actuarially sound based on the life expectancy of that individual or the term or the trust, whichever is less; and

(d) The requirements in subsection (4)(c) of this section do not apply to trusts described in WAC 388-561-0100 (6)(a) and (b).

(5) If a client or the client's spouse transfers an asset within the look-back period described in WAC 388-513-1365 without receiving adequate compensation, the result is a penalty period in which the client is not eligible for LTC services. If a client or the client's spouse transfers an asset on or after April 1, 2003, the department must establish a penalty period as follows:

(a) If a single or multiple transfers are made within a single month, then the penalty period:

(i) Begins on the first day of the month in which the transfer is made; and

(ii) Ends on the last day of the number of whole days found by dividing the total uncompensated value of the assets by the statewide average daily private cost for nursing facilities at the time of application.

(b) If multiple transfers are made during multiple months, then the transfers are treated as separate events and multiple penalty periods are established that begin on the latter of:

(i) The first day of the month in which the transfer is made; or

(ii) The first day after any previous penalty period has ended and end on the last day of the whole number of days as described in subsection (5)(a)(ii).

(6) If an asset is sold, transferred, or exchanged, the portion of the proceeds:

(a) That is used within the same month to acquire an excluded resource described in WAC (~~(388-513-1360)~~) 388-513-1350 does not affect the client's eligibility;

(b) That remain after an acquisition described in subsection (6)(a) becomes an available resource as of the first day of the following month.

(7) If the transfer of an asset to the client's spouse includes the right to receive a stream of income not generated by a transferred resource, the department must apply rules described in WAC 388-513-1330 (6) through (8).

(8) If the transfer of an asset for which adequate compensation is not received is made to a person other than the client's spouse and includes the right to receive a stream of income not generated by a transferred resource, the length of the penalty period is determined and applied in the following way:

(a) The total amount of income that reflects a time frame based on the actuarial life expectancy of the client who transfers the income is added together;

(b) The amount described in subsection (8)(a) is divided by the statewide average daily private cost for nursing facilities at the time of application; and

(c) A penalty period equal to the number of whole days found by following subsections (5)(a) and (b) and (8)(a) and (b) is applied that begins on the latter of:

(i) The first day of the month in which the client transfers the income; or

(ii) The first day of the month after any previous penalty period has ended.

(9) A penalty period for the transfer of an asset that is applied to one spouse is not applied to the other spouse, unless:

(a) Both spouses are receiving LTC services; and

(b) A division of the penalty period between the spouses is requested.

(10) If a client or the client's spouse disagrees with the determination or application of a penalty period, that person may request a hearing as described in chapter 388-02 WAC.

AMENDATORY SECTION (Amending WSR 03-14-038, filed 6/23/03, effective 8/1/03)

WAC 388-513-1365 Evaluating the transfer of an asset made on or after March 1, 1997 and before April 1, 2003 for long-term care (LTC) services. This section describes how the department evaluates the transfer of an asset made on or after March 1, 1997 and before April 1, 2003, by a client who is applying or approved for LTC services. The department must consider whether a transfer made within a specified time before the month of application requires a penalty period in which the client is not eligible for these services. Refer to WAC 388-513-1366 for rules used to evaluate the transfer of an asset made before March 1, 1997. Refer to WAC 388-513-1364 for rules used to evaluate the transfer of an asset made on or after March 31, 2003. Refer to WAC 388-513-1363 for rules used to evaluate the transfer of an asset made on or after May 1, 2006.

(1) The department disregards the following transfers by the client, if they meet the conditions described:

(a) Gifts or donations totaling one thousand dollars or less in any month;

(b) The transfer of an excluded resource described in WAC (~~(388-513-1360)~~) 388-513-1350 with the exception of the client's home, unless the transfer meets the conditions described in subsection (1)(d);

(c) The transfer of an asset for less than fair market value (FMV), if the client can provide evidence to the department that satisfies one of the following:

(i) An intent to transfer the asset at FMV or other adequate compensation;

(ii) The transfer is not made to qualify for LTC services;

(iii) The client is given back ownership of the asset;

(iv) The denial of eligibility would result in an undue hardship.

(d) The transfer of ownership of the client's home, if it is transferred to the client's:

(i) Spouse; or

(ii) Child, who:

(A) Meets the disability criteria described in WAC (~~(388-511-1105 (1)(b) or (e))~~) 388-475-0050 (1)(b) or (c); or

(B) Is less than twenty-one years old; or

(iii) A son or daughter, who:

(A) Lived in the home for at least two years immediately before the client's current period of institutional status; and

(B) Provided care that enabled the client to remain in the home; or

(iv) A brother or sister, who has:

(A) Equity in the home, and

(B) Lived in the home for at least one year immediately before the client's current period of institutional status.

(e) The transfer of an asset other than the home, if the transfer meets the conditions described in subsection (4), and the asset is transferred:

(i) To the client's spouse or to another person for the sole benefit of the spouse;

(ii) From the client's spouse to another person for the sole benefit of the spouse;

(iii) To the client's child who meets the disability criteria described in WAC (~~(388-511-1105 (1)(b) or (e))~~) 388-475-0050 (1)(b) or (c) or to a trust established for the sole benefit of this child; or

(iv) To a trust established for the sole benefit of a person who is sixty-four years old or younger and meets the disability criteria described in WAC (~~(388-511-1105 (1)(b) or (e))~~) 388-475-0050 (1)(b) or (c).

(f) The transfer of an asset to a member of the client's family in exchange for care the family member provided the client before the current period of institutional status, if a written agreement that describes the terms of the exchange:

(i) Was established at the time the care began;

(ii) Defines a reasonable FMV for the care provided that reflects a time frame based on the actuarial life expectancy of the client who transfers the asset; and

(iii) States that the transferred asset is considered payment for the care provided.

(2) When the fair market value of the care described in subsection (1)(f) is less than the value of the transferred asset,

the department considers the difference the transfer of an asset without adequate consideration.

(3) The department considers the transfer of an asset in exchange for care given by a family member without a written agreement as described under subsection (1)(f) as the transfer of an asset without adequate consideration.

(4) The transfer of an asset or the establishment of a trust is considered to be for the sole benefit of a person described in subsection (1)(e), if the transfer or trust:

(a) Is established by a legal document that makes the transfer irrevocable; and

(b) Provides for spending all funds involved for the benefit of the person for whom the transfer is made within a time frame based on the actuarial life expectancy of that person.

(5) When evaluating the effect of the transfer of an asset on a client's eligibility for LTC services received on or after October 1, 1993, the department counts the number of months before the month of application to establish what is referred to as the "look-back" period. The following number of months apply as described:

(a) Thirty-six months, if all or part of the assets were transferred on or after August 11, 1993; and

(b) Sixty months, if all or part of the assets were transferred into a trust as described in WAC 388-561-0100.

(6) If a client or the client's spouse transfers an asset within the look-back period without receiving adequate compensation, the result is a penalty period in which the client is not eligible for LTC services. If a client or the client's spouse transfers an asset on or after March 1, 1997 and before April 1, 2003, the department must establish a penalty period as follows:

(a) If a single or multiple transfers are made within a single month, then the penalty period:

(i) Begins on the first day of the month in which the transfer is made; and

(ii) Ends on the last day of the number of whole months found by dividing the total uncompensated value of the assets by the statewide average monthly private cost for nursing facilities at the time of application.

(b) If multiple transfers are made during multiple months, then the transfers are treated as separate events and multiple penalty periods are established that:

(i) Begin on the latter of:

(A) The first day of the month in which the transfer is made; or

(B) The first day after any previous penalty period has ended; and

(ii) End on the last day of the whole number of months as described in subsection (6)(a)(ii).

(7) If an asset is sold, transferred, or exchanged, the portion of the proceeds:

(a) That is used within the same month to acquire an excluded resource described in WAC ((388-513-1360)) 388-513-1350 does not affect the client's eligibility;

(b) That remains after an acquisition described in subsection (7)(a) becomes an available resource as of the first day of the following month.

(8) If the transfer of an asset to the client's spouse includes the right to receive a stream of income not generated

by a transferred resource, the department must apply rules described in WAC 388-513-1330 (6) through (8).

(9) If the transfer of an asset for which adequate compensation is not received is made to a person other than the client's spouse and includes the right to receive a stream not generated by a transferred resource, the length of the penalty period is determined and applied in the following way:

(a) The total amount of income that reflects a time frame based on the actuarial life expectancy of the client who transfers the income is added together;

(b) The amount described in (9)(a) is divided by the statewide average monthly private cost for nursing facilities at the time of application; and

(c) A penalty period equal to the number of whole months found by following subsections (9)(a) and (b) is applied that begins on the latter of:

(i) The first day of the month in which the client transfers the income; or

(ii) The first day of the month after any previous penalty period has ended.

(10) A penalty period for the transfer of an asset that is applied to one spouse is not applied to the other spouse, unless:

(a) Both spouses are receiving LTC services; and

(b) A division of the penalty period between the spouses is requested.

(11) If a client or the client's spouse disagrees with the determination or application of a penalty period, that person may request a hearing as described in chapter 388-02 WAC.

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

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-515-1540 Medically needy residential waiver (MNRW) effective March 17, 2003. This section describes the financial eligibility requirements for waiver services under the medically needy residential waiver (MNRW) and the rules used to determine a client's responsibility in the total cost of care.

(1) To be eligible for MNRW, a client must meet the following conditions:

(a) Does not meet financial eligibility for Medicaid personal care or the COPES program;

(b) Is eighteen years of age or older;

(c) Meets the SSI related criteria described in WAC ((388-511-1105(1))) 388-475-0050;

(d) Requires the level of care provided in a nursing facility as described in WAC 388-106-0355;

(e) In the absence of waiver services described in WAC 388-106-0400, would continue to reside in a medical facility as defined in WAC 388-513-1301, or will likely be placed in one within the next thirty days;

(f) Has attained institutional status as described in WAC 388-513-1320;

(g) Has been determined to be in need of waiver services as described in WAC 388-106-0410;

(h) Lives in one of the following department-contracted residential facilities:

- (i) Licensed adult family home (AFH);
- (ii) Assisted living (AL) facility; or
- (iii) Enhanced adult residential care (EARC) facility.

(i) Is not subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1363, 388-513-1364, 388-513-1365 and 388-513-1366; and

(j) Meets the resource and income requirements described in subsections (2) through (6).

(2) The department determines a client's nonexcluded resources under MNRW as described in WAC 388-513-1350 ~~((1) through (4)(a) and WAC 388-513-1360))~~;

(3) Nonexcluded resources, after disregarding excess resources described in (4), must be at or below the resource standard described in WAC 388-513-1350 (1) and (2).

(4) In determining a client's resource eligibility, the department disregards excess resources above the standard described in subsection (3) of this section:

(a) In an amount equal to incurred medical expenses such as:

(i) Premiums, deductibles, and co-insurance/co-payment charges for health insurance and Medicare premiums;

(ii) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; or

(iii) Necessary medical care covered under the state's Medicaid plan.

(b) As long as the incurred medical expenses:

(i) Are not subject to third-party payment or reimbursement;

(ii) Have not been used to satisfy a previous spend down liability;

(iii) Have not previously been used to reduce excess resources;

(iv) Have not been used to reduce client responsibility toward cost of care; and

(v) Are amounts for which the client remains liable.

(5) The department determines a client's countable income under MNRW in the following way:

(a) Considers income available described in WAC 388-513-1325 and 388-513-1330 (1), (2), and (3);

(b) Excludes income described in WAC 388-513-1340;

(c) Disregards income described in WAC 388-513-1345;

(d) Deducts monthly health insurance premiums, except Medicare premiums.

(6) If the client's countable income is:

(a) Less than the residential facility's department-contracted rate, based on an average of 30.42 days in a month the client may qualify for MNRW subject to availability per WAC 388-106-0435;

(b) More than the residential facility's department-contracted rate, based on an average of 30.42 days in a month the client may qualify for MNRW when they meet the requirements described in subsections (7) through (9), subject to availability per WAC 388-106-0435.

(7) The portion of a client's countable income over the department-contracted rate is called "excess income."

(8) A client who meets the requirements for MNRW chooses a three or six month base period. The months must be consecutive calendar months.

(9) A client who has or will have "excess income" is not eligible for MNRW until the client has medical expenses

which are equal in amount to that excess income. This is the process of meeting "spenddown." The excess income from each of the months in the base period is added together to determine the total "spenddown" amount.

(10) Medical expenses described in subsection (4) of this WAC may be used to meet spenddown if not already used in subsection (4) of this WAC to disregard excess resources or to reduce countable income as described in subsection (5)(d).

(11) In cases where spenddown has been met, medical coverage begins the day services are authorized.

(12) The client's income that remains after determining available income in WAC 388-513-1325 and 388-513-1330 (1), (2), (3) and excluded income in WAC 388-513-1340 is paid towards the cost of care after deducting the following amounts in the order listed:

(a) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;

(b) Personal needs allowance (PNA) described in WAC 388-515-1505 ~~((7)(b))~~. (Long-term care standards can be found at <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>);

(c) Medicare and health insurance premiums not used to meet spenddown or reduce excess resources described in WAC 388-513-1350;

(d) Incurred medical expenses described in (4) not used to meet spenddown or reduce excess resources described in WAC 388-513-1350.

AMENDATORY SECTION (Amending WSR 03-13-113, filed 6/17/03, effective 8/1/03)

WAC 388-561-0100 Trusts. (1) The department determines how trusts affect eligibility for medical programs.

(2) The department disregards trusts established, on or before April 6, 1986, for the sole benefit of a client who lives in an intermediate care facility for the mentally retarded (ICMR).

(3) For trusts established on or before August 10, 1993 the department counts the following:

(a) If the trust was established by the client, client's spouse, or the legal guardian, the maximum amount of money (payments) allowed to be distributed under the terms of the trust is considered available income to the client if all of the following conditions apply:

(i) The client could be the beneficiary of all or part of the payments from the trust;

(ii) The distribution of payments is determined by one or more of the trustees; and

(iii) The trustees are allowed discretion in distributing payments to the client.

(b) If an irrevocable trust doesn't meet the conditions under subsection (3)(a) then it is considered either:

(i) An **unavailable** resource, if the client established the trust for a beneficiary other than the client or the client's spouse; or

(ii) An **available** resource in the amount of the trust's assets that:

(A) The client could access; or

(B) The trustee distributes as actual payments to the client and the department applies the transfer of assets rules of WAC 388-513-1363, 388-513-1364 or 388-513-1365.

(c) If a revocable trust doesn't meet the description under subsection (3)(a):

(i) The full amount of the trust is an available resource of the client if the trust was established by:

(A) The client;

(B) The client's spouse, and the client lived with the spouse; or

(C) A person other than the client or the client's spouse only to the extent the client had access to the assets of the trust.

(ii) Only the amount of money actually paid to the client from the trust is an available resource when the trust was established by:

(A) The client's spouse, and the client did not live with the spouse; or

(B) A person other than the client or the client's spouse; and

(C) Payments were distributed by a trustee of the trust.

(iii) The department considers the funds a resource, not income.

(4) For trusts established on or after August 11, 1993:

(a) The department considers a trust as if it were established by the client when:

(i) The assets of the trust, as defined under WAC 388-470-0005, are at least partially from the client;

(ii) The trust is not established by will; and

(iii) The trust was established by:

(A) The client or the client's spouse;

(B) A person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the client or the client's spouse; or

(C) A person, including a court or administrative body, acting at the direction of or upon the request of the client or the client's spouse.

(b) Only the assets contributed to the trust by the client are available to the client when part of the trust assets were contributed by any other person.

(c) The department does not consider:

(i) The purpose for establishing a trust;

(ii) Whether the trustees have, or exercise, any discretion under the terms of the trust;

(iii) Restrictions on when or whether distributions may be made from the trust; or

(iv) Restrictions on the use of distributions from the trust.

(d) For a revocable trust established as described under subsection (4)(a) of this section:

(i) The full amount of the trust is an available resource of the client;

(ii) Payments from the trust to or for the benefit of the client are income of the client; and

(iii) Any payments from the trust, other than payments described under subsection (4)(d)(ii), are considered a transfer of client assets.

(e) For an irrevocable trust established as described under subsection (4)(a) of this section:

(i) Any part of the trust from which payment can be made to or for the benefit of the client is an available resource. When payment is made from such irrevocable trusts, we will consider the payments as:

(A) Income to the client when payment is to or for the client's benefit; or

(B) The transfer of an asset when payment is made to any person for any purpose other than the client's benefit;

(ii) A trust from which a payment cannot be made to or for the client's benefit is a transfer of assets. For such a trust, the transfer of assets is effective the date:

(A) The trust is established; or

(B) The client is prevented from receiving benefit, if this is after the trust is established.

(iii) The value of the trust includes any payments made from the trust after the effective date of the transfer.

(5) For trusts established on or after August 1, 2003:

(a) The department considers a trust as if it were established by the client when:

(i) The assets of the trust, as defined under WAC 388-470-0005, are at least partially from the client or the client's spouse;

(ii) The trust is not established by will; and

(iii) The trust was established by:

(A) The client or the client's spouse;

(B) A person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the client or the client's spouse; or

(C) A person, including a court or administrative body, acting at the direction of or upon the request of the client or the client's spouse.

(b) Only the assets contributed other than by will to the trust by either the client or the client's spouse are available to the client or the client's spouse when part of the trust assets were contributed by persons other than the client or the client's spouse.

(c) The department does not consider:

(i) The purpose for establishing a trust;

(ii) Whether the trustees have, or exercise, any discretion under the terms of the trust;

(iii) Restrictions on when or whether distributions may be made from the trust; or

(iv) Restrictions on the use of the distributions from the trust.

(d) For a revocable trust established as described under subsection (5)(a) of this section:

(i) The full amount of the trust is an available resource of the client;

(ii) Payments from the trust to or for the benefit of the client are income of the client; and

(iii) Any payments from the trust, other than payments described under subsection (5)(d)(ii), are considered a transfer of client assets.

(e) For an irrevocable trust established as described under subsection (5)(a) of this section:

(i) Any part of the trust from which payment can be made to or for the benefit of the client or the client's spouse is an available resource. When payment is made from such irrevocable trusts, the department will consider the payment as:

(A) Income to the client or the client's spouse when payment is to or for the benefit of either the client or the client's spouse; or

(B) The transfer of an asset when payment is made to any person for any purpose other than the benefit of the client or the client's spouse;

(ii) A trust from which a payment cannot be made to or for the benefit of the client or client's spouse is a transfer of assets. For such a trust, the transfer of assets is effective the date:

(A) The trust is established; or

(B) The client or client's spouse is prevented from receiving benefit, if this is after the trust is established.

(iii) The value of the trust includes any payments made from the trust after the effective date of the transfer.

(6) Trusts established on or after August 11, 1993 are not considered available resources if they contain the assets of either:

(a) A person sixty-four years of age or younger who is disabled as defined by SSI criteria (as described in WAC ((~~388-503-0510~~)) 388-475-0050) and the trust:

(i) Is established for the sole benefit of this person by their parent, grandparent, legal guardian, or a court; and

(ii) Stipulates that the state will receive all amounts remaining in the trust upon the death of the client, up to the amount of Medicaid spent on the client's behalf; or

(b) A person regardless of age, who is disabled as defined by SSI criteria (as described in WAC ((~~388-503-0510~~)) 388-475-0050), and the trust meets the following criteria:

(i) It is irrevocable;

(ii) It is established and managed by a nonprofit association;

(iii) A separate account is maintained for each beneficiary of the trust but for purposes of investment and management of funds the trust pools the funds in these accounts;

(iv) Accounts in the trust are established solely for the benefit of the disabled individual as defined by the SSI program;

(v) Accounts in the trust are established by:

(A) The individual;

(B) The individual's spouse, where the spouse is acting in the place of or on behalf of the individual;

(C) The individual's parent, grandparent, legal guardian;

(D) A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse; or

(E) A person, including a court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

(vi) It stipulates that either:

(A) The state will receive all amounts remaining in the client's separate account upon the death of the client, up to the amount of Medicaid spent on the client's behalf; or

(B) The funds will remain in the trust to benefit other disabled beneficiaries of the trust.

(7) Trusts established on or after August 1, 2003 are not considered available resources if they contain the assets of either:

(a) A person sixty-four years of age or younger who is disabled as defined by SSI criteria (as described in WAC ((~~388-503-0510~~)) 388-475-0050) and the trust:

(i) Is irrevocable;

(ii) Is established for the sole benefit of this person by their parent, grandparent, legal guardian, or a court; and

(iii) Stipulates that the state will receive all amounts remaining in the trust upon the death of the client, the end of the disability, or the termination of the trust, whichever comes first, up to the amount of Medicaid spent on the client's behalf; or

(b) A person regardless of age, who is disabled as defined by SSI criteria (as described in WAC ((~~388-503-0510~~)) 388-475-0050), and the trust meets the following criteria:

(i) It is irrevocable;

(ii) It is established and managed by a nonprofit association;

(iii) A separate account is maintained for each beneficiary of the trust but for purposes of investment and management of funds the trust pools the funds in these accounts;

(iv) Accounts in the trust are established solely for the benefit of the disabled individual as defined by the SSI program;

(v) Accounts in the trust are established by:

(A) The individual;

(B) The individual's spouse, where the spouse is acting in the place of or on behalf of the individual;

(C) The individual's parent, grandparent, legal guardian;

(D) A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse; or

(E) A person, including a court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

(vi) It stipulates that either:

(A) The state will receive all amounts remaining in the client's separate account upon the death of the client, the end of the disability, or the termination of the trust, whichever comes first, up to the amount of Medicaid spent on the client's behalf; or

(B) The funds will remain in the trust to benefit other disabled beneficiaries of the trust.

(8) Trusts described in subsection (6)(a) and (7)(a) continue to be considered an unavailable resource even after the individual becomes age sixty-five. However, additional transfers made to the trust after the individual reaches age sixty-five would be considered an available resource and would be subject to a transfer penalty.

(9) The department does not apply a penalty period to transfers into a trust described in subsections (6)(b) and (7)(b) if the trust is established for the benefit of a disabled individual under age sixty-five as described in WAC 388-513-1363 and 388-513-1364 and the transfer is made to the trust before the individual reaches age sixty-five.

(10) The department considers any payment from a trust to the client to be unearned income. Except for trusts described in subsection (6), the department considers any payment to or for the benefit of either the client or client's

spouse as described in subsections (4)(e) and (5)(e) to be unearned income.

(11) The department will only count income received by the client from trusts and not the principal, if:

- (a) The beneficiary has no control over the trust; and
- (b) It was established with funds of someone other than the client, spouse or legally responsible person.

(12) This section does not apply when a client establishes that undue hardship exists.

(13) WAC 388-513-1363, 388-513-1364, 388-513-1365, and 388-513-1366 apply under this section when the department determines that a trust or a portion of a trust is a transfer of assets.

AMENDATORY SECTION (Amending WSR 01-06-043, filed 3/5/01, effective 5/1/01)

WAC 388-561-0300 Life estates. (1) The department determines how life estates affect eligibility for medical programs.

(2) A life estate is an excluded resource when either of the following conditions apply:

- (a) It is property other than the home, which is essential to self-support or part of an approved plan for self-support; or
- (b) It cannot be sold due to the refusal of joint life estate owner(s) to sell.

(3) Remaining interests of excluded resources in subsection (2) may be subject to transfer of asset penalties under WAC 388-513-1363, 388-513-1364 and 388-513-1365.

(4) Only the client's proportionate interest in the life estate is considered when there is more than one owner of the life estate.

(5) A client or a client's spouse, who transfers legal ownership of a property to create a life estate, may be subject to

transfer-of-resource penalties under WAC 388-513-1363, 388-513-1364 and 388-513-1365.

(6) When the property of a life estate is transferred for less than fair market value (FMV), the department treats the transfer in one of two ways:

(a) For noninstitutional medical, the value of the uncompensated portion of the resource is combined with other non-excluded resources; or

(b) For institutional medical, a period of ineligibility will be established according to WAC 388-513-1363, 388-513-1364 and 388-513-1365.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-511-1105 SSI-related eligibility requirements.

WSR 08-11-072

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed May 19, 2008, 10:35 a.m., effective June 19, 2008]

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

Purpose: These amendments and new sections define and reorganize the rules governing the delivery of services to individuals with developmental disabilities.

| Washington Administrative Code | Effect of Rule | Impact Small Business? |
|--|--|------------------------|
| 388-825-020 Definitions | | |
| "Abandonment" - repealed | Definition is no longer used in this chapter. | No |
| "Adolescent" - repealed | Definition is no longer used in this chapter. | No |
| "Attendant care" - repealed | Definition is now contained in WAC 388-825-074. | No |
| "Best interest" - repealed | Definition is no longer used in this chapter. | No |
| "Client or person" - amended | Revises definition to correspond with other chapters. | No |
| "Community support services" - repealed | Definition is no longer used in this chapter. | No |
| "Companion home" - repealed | Definition is now contained in chapter 388-829C WAC. | No |
| "Division or DDD" - amended | Adds the aging and disability services administration to the definition. | No |
| "Emergency" - repealed | Definition is no longer used in this chapter. | No |
| "Exemption" - repealed | Definition is no longer used in this chapter. | No |
| "Family" - amended | Revises definition of "family" to correspond with other chapters. | No |
| "Family resource coordinator" - repealed | Definition is no longer used in this chapter. | No |
| "ICF/MR" - amended | Clarifies the definition of ICF/MR. | No |
| "Individual support plan (ISP)" - new | Adds the definition of ISP. | No |
| "Individual" - repealed | Definition is no longer used in this chapter. | No |
| "Individual alternative living" - repealed | Definition is no longer used in this chapter. | No |
| "Intelligence quotient score" - repealed | Definition is no longer used in this chapter. | No |

| Washington Administrative Code | Effect of Rule | Impact Small Business? |
|--|--|------------------------|
| "Intensive individual supported living support" - repealed | Definition is no longer used in this chapter. | No |
| "Medicaid personal care" - amended | Corrects the cross reference to chapter 388-106 WAC. | No |
| "Non-residential programs" - repealed | Definition is no longer used in this chapter. | No |
| "Nursing facility eligible" - repealed | Definition is no longer used in this chapter. | No |
| "Other resources" - repealed | Definition is no longer used in this chapter. | No |
| "Part C" - repealed | Definition is no longer used in this chapter. | No |
| "RHC capacity" - repealed | Definition is no longer used in this chapter. | No |
| "Residential programs" - amended | Corrects the types of programs considered to be residential and adds cross references. | No |
| "Respite care" - amended | Amends definition for consistency with other programs. | No |
| "Vacancy" - repealed | Definition is no longer used in this chapter. | No |
| "Vulnerable adult" - repealed | Definition is no longer used in this chapter. | No |
| 388-825-025 - repealed | Exemptions are no longer valid. | No |
| 388-825-045 - repealed | Section is broken down into more manageable sections later in this chapter. | No |
| 388-825-050 - repealed | Individual service plans are no longer in use. | No |
| 388-825-055 - repealed | Section is broken down into more manageable sections later in this chapter. | No |
| 388-825-056 - new | Describes how DDD services benefit persons with developmental disabilities. | No |
| 388-825-057 - new | Describes how eligibility for paid services is determined. | No |
| 388-825-0571 - new | Describes the services available to persons under eighteen who are in a dependency guardianship or foster care with children's administration. | No |
| 388-825-058 - new | Lists services that DDD may authorize. | No |
| 388-825-059 - new | Clarifies that the individual support plan identifies the services and the amount to be received. | No |
| 388-825-061 - new | Describes services for persons under the age of three. | No |
| 388-825-062 - new | Defines the infant toddler early intervention program (ITEIP). | No |
| 388-825-063 - new | Defines services available under ITEIP. | No |
| 388-825-065 - repealed | Section is no longer applicable. | No |
| 388-825-066 - new | Describes where program eligibility rules and service definitions for ITEIP can be found. | No |
| 388-825-067 - new | Defines medicaid state plan services. | No |
| 388-825-068 - new | Describes what medicaid state plan service that DDD can authorize. | No |
| 388-825-069 - new | Describes service available under the DDD home and community-based services (HCBS) waiver. | No |
| 388-825-071 - new | Describes eligibility criteria for services for persons enrolled in a DDD HCBS waiver. | No |
| 388-825-072 - new | Describes where information on DDD's HCBS waivers can be found. | No |
| 388-825-073 - new | Defines "state-only funded" services. | No |
| 388-825-074 - new | Describes eligibility for state-only funded services. | No |
| 388-825-079 - new | Defines which HCBS waiver services that DDD can authorize with state-only funding for persons not on an HCBS waiver. | No |

| Washington Administrative Code | Effect of Rule | Impact Small Business? |
|--------------------------------|---|------------------------|
| 388-825-080 - repealed | Section is moved to WAC 388-825-098 and reworded. | No |
| 388-825-081 - new | Defines which state-only funded services not available in a HCBS waiver that DDD can authorize. | No |
| 388-825-082 - new | Lists and defines other state-only funded services that are not contained in other DDD rules. | No |
| 388-825-083 - new | Lists all of the services available through DDD. | No |
| 388-825-084 - new | Lists limitations of state-only services and programs. | No |
| 388-825-0871 - new | Lists out-of-home residential services that address the special needs of persons with developmental disabilities. | No |
| 388-825-088 - new | Lists where additional information can be found about DDD contracted residential services. | No |
| 388-825-089 - new | Defines residential habilitation centers (RHCs) and lists the RHCs' locations in the state. | No |
| 388-825-091 - new | Defines the eligibility for RHC services. | No |
| 388-825-093 - new | Defines when a person can receive a short-term stay at an RHC. | No |
| 388-825-094 - new | Describes when a person can request to live in an RHC and how the request is processed. | No |
| 388-825-096 - new | Describes what a person must pay toward the cost of DDD services. | No |
| 388-825-097 - new | Describes what expenses can be deducted from income in determining participation. | No |
| 388-825-098 - new | Moved from WAC 388-825-080 and reworded for clarity. | No |

Citation of Existing Rules Affected by this Order: Repealing WAC 388-825-025, 388-825-045, 388-825-050, 388-825-055, 388-825-065 and 388-825-080; and amending WAC 388-825-020.

Statutory Authority for Adoption: RCW 71A.10.015, 71A.12.020, and 71A.12.030.

Other Authority: Title 71A RCW.

Adopted under notice filed as WSR 08-07-103 on March 19, 2008.

Changes Other than Editing from Proposed to Adopted Version: The WAC cross reference in WAC 388-825-057(1) is corrected from WAC 388-825-061 through 388-825-066 to 388-823-0800 through 388-823-0850.

The changes were made because the WAC cross reference in the proposed rule was incorrect.

A final cost-benefit analysis is available by contacting Steve Brink, P.O. Box 45310, Olympia, WA 98507-5310, phone (360) 725-3416, fax (360) 404-0955, e-mail brinksc@dshs.wa.gov.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 30, Amended 1, Repealed 6.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 30, Amended 1, Repealed 6.

Date Adopted: May 16, 2008.

Robin Arnold-Williams
Secretary

AMENDATORY SECTION (Amending WSR 04-02-014, filed 12/29/03, effective 1/29/04)

WAC 388-825-020 Definitions. (~~"Abandonment" means action or inaction by a person or entity with a duty to care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.~~

~~"Adolescent" means a DDD eligible child age thirteen through seventeen years.~~

~~"Attendant care" means provision of physical and/or behavioral support to protect the safety and well-being of a client.~~

~~"Best interest" includes, but is not limited to, client-centered benefits to:~~

- ~~(1) Prevent regression or loss of skills already acquired;~~
- ~~(2) Achieve or maintain economic self support;~~
- ~~(3) Achieve or maintain self-sufficiency;~~

(4) Prevent or remedy neglect, abuse, or exploitation of individuals unable to protect their own interest;

(5) Preserve or reunite families; and

(6) Provide the least restrictive setting that will meet the person's medical and personal needs.)

"Client or person" means a person ~~((the division determines under RCW 71A.16.040 and WAC 388-825-030 eligible for division-funded services))~~ who has a developmental disability as defined in RCW 71A.10.020(3) who also has been determined eligible to receive services by the division under chapter 71A.16 RCW.

~~("Community support services" means one or more of the services listed in RCW 71A.12.040 including, but not limited to the following services: Architectural, case management, early childhood intervention, employment, counseling, family support, respite care, information and referral, health services and equipment, therapy services, and residential support.~~

~~"Companion home" means the same as "intensive individual supported living support.")~~

"Department" means the department of social and health services of the state of Washington.

"Director" means the director of the division of developmental disabilities.

"Division or DDD" means the division of developmental disabilities within the aging and disability services administration of the department of social and health services.

~~("Emergency" means a sudden, unexpected occurrence demanding immediate action.~~

~~"Exemption" means the department's approval of a written request for an exception to a rule in this chapter.)~~

"Family" means ~~((individuals, of any age, living together in the same household and related by blood, marriage, adoption or as a result of sharing legal custody of a minor child))~~ relatives who live in the same home with the eligible client. Relatives include spouse; natural, adoptive or step parents; grandparents; brother; sister; stepbrother; step-sister; uncle; aunt; first cousin; niece; or nephew.

~~("Family resources coordinator" means the person who is:~~

~~(1) Recognized by the IDEA Part C lead agency; and~~

~~(2) Responsible for:~~

~~(a) Providing family resources coordination;~~

~~(b) Coordinating services across agencies; and~~

~~(c) Serving as a single contact to help families receiving assistance and services for their eligible children who are under three years of age.)~~

"ICF/MR" means a facility certified as an intermediate care facility for the mentally retarded by Title XIX to provide diagnosis, treatment and rehabilitation services to the mentally retarded or persons with related conditions.

"ICF/MR eligible" for admission to an ICF/MR means a person is determined by DDD as needing active treatment as defined in CFR 483.440. Active treatment requires:

(1) Twenty-four hour supervision; and

(2) Continuous training and physical assistance in order to function on a daily basis due to deficits in the following areas: Toilet training, personal hygiene, dental hygiene, self-feeding, bathing, dressing, grooming, and communication.

"Individual Support Plan (ISP)" is a document that authorizes and identifies the DDD paid services to meet a client's assessed needs.

~~("Individual" means a person applying for services from the division.~~

~~"Individual alternative living" means provision of community-based individualized client training, assistance and/or ongoing support to enable a client to live as independently as possible with minimal services.~~

~~"Intelligence quotient score" means a full scale score on the Wechsler, or the intelligence quotient score on the Stanford Binet or the Leiter International Performance Scale.~~

"Intensive individual supported living support" (also known as companion home) means provision of twenty-four hour residential support in a nonlicensed home for no more than one adult person with developmental disabilities in a regular family residence approved and contracted by the department ensuring client health, safety and well-being.)

"Medicaid personal care" is the provision of medically necessary personal care tasks as defined in chapter ((388-15)) 388-106 WAC.

~~("Nonresidential programs" means programs including, but not limited to, county funded habilitation services.~~

~~"Nursing facility eligible" means a person is assessed by DDD as meeting the requirements for admission to a licensed nursing home as defined in WAC 388-71-0700 (3) through (5). The person must require twenty-four hour care provided by or under the supervision of a licensed nurse.~~

"Other resources" means resources that may be available to the client, including but not limited to:

(1) Private insurance;

(2) Medicaid;

(3) Indian health care;

(4) Public school services through the office of the superintendent of public instruction; and

(5) Services through the department of health.

"Part C" means early intervention for children from birth through thirty-five months of age as defined in the Individuals with Disabilities Education Act (IDEA), Part C and 34 CFR, Part 303 and Washington's federally approved grant.)

"Residential habilitation center" or "RHC" means a state-operated facility certified to provide ICF/MR and/or nursing facility level of care for persons with developmental disabilities.

~~("RHC capacity" means the maximum number of eligible persons that can reside in a residential habilitation center without exceeding its 1997 legislated budgeted capacity.)~~

"Residential programs" means provision of support for persons in community living situations. Residential programs include DDD certified community residential services and support, both facility-based such as((-)) licensed group homes, and nonfacility based, ~~((i.e., supportive))~~ such as supported living((-intensive tenant support,)) and state-operated living alternatives (SOLA). Other residential programs include ~~((individual))~~ alternative living (as described in chapter 388-829A WAC, companion homes (as described in chapter 388-829C WAC), ((intensive individual supportive living services,)) adult family homes, adult residential care services,

~~((nursing homes, and)) children's foster homes, group care and staffed residential homes.~~

~~"Respite care" means ((temporary residential services provided to a person and/or the person's family on an emergency or planned basis)) short-term intermittent relief for persons normally providing care for the individuals.~~

"Secretary" means the secretary of the department of social and health services or the secretary's designee.

"State supplementary payment (SSP)" is the state paid cash assistance program for certain DDD eligible SSI clients.

~~("Vacancy" means an opening at a RHC, which when filled, would not require the RHC to exceed its 1997 biannually budgeted capacity, minus:~~

~~(1) Twenty-six beds designated for respite care use; and~~

~~(2) Any downsizing related to negotiations with the Department of Justice regarding community placements.~~

~~"Vulnerable adult" means a person who has a developmental disability as defined under RCW 71A.10.020.)~~

NEW SECTION

WAC 388-825-056 What benefits do DDD paid services provide to me? DDD paid services provide one or more of the following benefits:

- (1) An opportunity to learn, improve or retain social and adaptive skills necessary for living in the community;
- (2) Health and safety;
- (3) Personal power and choice;
- (4) Competence and self reliance;
- (5) Positive recognition by self and others;
- (6) Positive relationships; and
- (7) Integration into the physical and social life of the community.

NEW SECTION

WAC 388-825-057 Am I eligible to receive paid services from DDD? You may be eligible to receive paid services from DDD if you are currently an eligible client of DDD per chapter 388-823 WAC and:

- (1) You are under the age of three and meet the eligibility requirements contained in WAC 388-823-0800 through 388-823-0850; or
- (2) You are a recipient of Washington State medicaid under the categorically needy program (CNP) and meet the eligibility requirements contained in chapters 388-474, 388-475 and 388-513 WAC; or
- (3) You are enrolled in a DDD home and community based services waiver and meet the eligibility requirements contained in chapter 388-845 WAC; or
- (4) You have been enrolled in the individual and family services program and meet the eligibility requirements contained in chapter 388-832 WAC; or
- (5) You have been approved to receive a state-only funded service.

NEW SECTION

WAC 388-825-0571 What services am I eligible to receive from DDD if I am under the age of eighteen, have

been determined to meet DDD eligibility requirements, and I am in a dependency guardianship or foster care with children's administration? Your services from DDD are limited to Medicaid personal care services and related case management if you meet the programmatic eligibility for Medicaid personal care in chapter 388-106 and 388-71 WAC governing Medicaid personal care (MPC) using the current department approved assessment form, comprehensive assessment reporting evaluation (CARE), and:

- (1) You are under the age of eighteen;
- (2) You have been determined to meet DDD eligibility requirements; and
- (3) You are in a dependency guardianship or foster care with children's administration.

NEW SECTION

WAC 388-825-058 What services does DDD authorize? DDD authorizes:

- (1) Medicaid state plan services;
- (2) Infant toddler early intervention program (ITEIP) services;
- (3) Home and community based services (HCBS) waiver services; and
- (4) State-only funded services.

NEW SECTION

WAC 388-825-059 How will I know which paid services I will receive? Your individual support plan (ISP) identifies the services and the amount of service you can receive.

NEW SECTION

WAC 388-825-061 What service am I eligible for if I am under the age of three? (1) Children under age three are eligible for the infant toddler early intervention program (ITEIP) under the individuals with disabilities education act, (IDEA), Part C, and Washington's federally approved plan.

(2) Infants and toddlers eligible for DDD may receive DDD state-only funded child development services if funding is available.

NEW SECTION

WAC 388-825-062 What is infant toddler early intervention program (ITEIP)? Infant toddler early intervention program (ITEIP) is a statewide, multi-agency program, administered by and located with DDD, to coordinate a system of early intervention services for children, birth to three, and their families under the individuals with disabilities education act (IDEA), Part C/ITEIP state rules and regulations.

NEW SECTION

WAC 388-825-063 What services can infant toddler early intervention program (ITEIP) provide? Infant toddler early intervention program (ITEIP) provides family resources coordination (FRC) services. The FRC assists the family and child through the team evaluation/assessment process, eligibility determination. If eligible, the FRC coordi-

nates the development of the individualized family service plan (IFSP) that documents outcomes, early intervention services, funding sources, supports and other information required for service delivery.

NEW SECTION

WAC 388-825-066 Where do I find the program eligibility rules and service definitions for infant toddler early intervention program (ITEIP)? Eligibility for infant toddler early intervention program (ITEIP) is defined by the individuals with disabilities education act (IDEA), Part C, and Washington's federally approved plan. Additional ITEIP program and service information is on the ITEIP website: <http://www1.dshs.wa.gov/iteip>. You can locate the name of the family resources coordinator (FRC) online at <http://www1.dshs.wa.gov/iteip/CountyOrgLinks.html> or call the family health hotline at 1-800-322-2588. Parents may self-refer and do not need a doctor's referral for entry into early intervention.

NEW SECTION

WAC 388-825-067 What are medicaid state plan services? (1) Medicaid state plan services are those services available to all persons eligible for medicaid under the categorically needy program. See WAC 388-475-0100 for the categorically needy program requirements.

(2) To receive the service, you must be assessed by DSHS to have an unmet need for the service and meet the eligibility criteria for the program. See WAC 388-825-068 for services authorized by DDD.

NEW SECTION

WAC 388-825-068 What medicaid state plan services can DDD authorize? DDD can authorize the following medicaid state plan services:

- (1) Medicaid personal care, per chapter 388-106 WAC;
- (2) Private duty nursing for adults age eighteen and older; per chapter 388-106 WAC;
- (3) Private duty nursing for children under the age of eighteen, per WAC 388-551-3000;
- (4) Adult day health for adults, per WAC 388-106-0810 and 388-106-0815; and
- (5) ICF/MR services, per chapters 388-835 and 388-837 WAC.

| Medicaid State Plan Services | |
|--|--|
| Adult day health | Medicaid personal care • In-home • Adult family home • Adult residential care |
| ICF/MR services | |
| Medically intensive home care program for children | |
| Private duty nursing for adults | |

NEW SECTION

WAC 388-825-069 What services are provided under a home and community based services (HCBS) waiver? (1) Home and community based services (HCBS) waivers provide specific services approved by the federal centers for

medicare and medicaid services (CMS) under section 1915 (c) of the social security act as an alternative to placement in an intermediate care facility for the mentally retarded (ICF/MR).

(2) Certain federal regulations governing ICF/MRs are "waived" enabling the provision of services in the home and community to persons who would otherwise require the services provided in an ICF/MR as defined in chapters 388-835 and 388-837 WAC.

NEW SECTION

WAC 388-825-071 What services am I eligible for if I am enrolled in a DDD home and community based services (HCBS) waiver? If you are enrolled in a DDD home and community based services waiver, you are eligible for the services identified in your assessment and authorized in your Individual Support Plan.

(1) Your waiver services are limited to the services available in your specific waiver based on an assessment of your health and welfare needs.

(2) The services available through each of DDD's HCBS waivers are described in chapter 388-845 WAC.

NEW SECTION

WAC 388-825-072 Where do I find information on DDD's home and community based services (HCBS) waiver services, eligibility rules and definitions? Home and community based services (HCBS) waiver eligibility, the scope of services provided by each waiver, the definitions of the services, the limitations of the service, and qualified providers for the service are contained in chapter 388-845 WAC.

NEW SECTION

WAC 388-825-073 What is a "state-only funded" service? State-only funded services are those services paid entirely with state funds. These services are limited by available funding.

NEW SECTION

WAC 388-825-074 Am I eligible for state-only funded services? You are eligible to receive available state-only funded services if you have been approved for funding for that service, and all of the following conditions apply:

- (1) You have a current DDD assessment that identifies the need for the service;
- (2) You meet the programmatic and financial eligibility requirements for the specific service or program;
- (3) Your need cannot be met through medicaid state plan services;
- (4) You are not enrolled in a DDD home and community based services (HCBS) waiver;
- (5) You do not receive SSP as a replacement for the requested service;
- (6) The program or service is funded by the legislature.

NEW SECTION

WAC 388-825-079 If I am not on a DDD HCBS waiver, can I receive services that are available through the DDD HCBS waivers with state-only funding? (1) With the exception of personal care, you may be authorized to receive any of the services that are available through the DDD HCBS waivers with state-only funding.

(2) Services that are available through the DDD HCBS waivers and authorized with state-only funding:

(a) Are subject to the definitions, limitations and provider qualifications contained in chapter 388-845 WAC; and

(b) Require prior approval by the director of DDD or designee.

NEW SECTION

WAC 388-825-081 Can I receive state-only funded services that are not available in a DDD HCBS waiver? You may be authorized to receive state-only funded services that are available in other DSHS rules as defined below:

(1) Adult day care (WAC 388-106-0800);

(2) Attendant care (WAC 388-825-082);

(3) Childcare for foster children (chapter 388-826 WAC);

(4) Chore services (chapter 388-106 WAC);

(5) Supported living allowance (chapter 388-101 WAC);

(6) Individual and family assistance by the county (WAC 388-825-082);

(7) Information and education by the county (WAC 388-825-082);

(8) Medical and dental services (WAC 388-825-082);

(9) Psychological counseling (WAC 388-825-082);

(10) Reimbursement through a family support program to families for the purchase of approved items or service (WAC 388-825-242);

(11) State supplementary payments (chapter 388-827 WAC); and

(12) Transportation reimbursement for an escort (WAC 388-825-082).

NEW SECTION

WAC 388-825-082 What state-only funded services are authorized in DDD rules? The following state-only funded services defined below are authorized only by DDD and are not contained in other rules governing DDD.

(1) "Adult day care" not covered by Medicaid is a DDD county service providing a structured social program for adults and is limited to persons receiving the service prior to June 2005.

(2) "Attendant care" provides respite care or personal care and is limited to persons who:

(a) Are not eligible for other DDD services to meet their need; and

(b) Were receiving attendant care in March 2004.

(3) "Individual and family assistance" is a time limited county service available to individuals and families.

(a) Supports are provided to additional families and persons with developmental disabilities in need of services within existing resources;

(b) Individuals and families receiving services have more control and flexibility with the use of the resources; and

(c) The individual and family are assisted in connecting to and using natural and informal community supports.

(4) "Information and education" is a county service that provides a variety of activities and strategies to assure that individuals with developmental disabilities and families have full access to current information about services and support that will assist them in becoming full participants in their communities.

(5) "Medical and dental services" means those services which are necessary for the health of the client and are not covered by medicaid or private insurance.

(6) "Psychological counseling" may provide specialized cognitive counseling, strategies for effectively relating to people or coping with situations and problems.

(7) "Transportation reimbursement for an escort" is the payment for someone other than the driver to provide one-on-one attention to the client being transported.

NEW SECTION

WAC 388-825-083 Is there a comprehensive list of waiver and state-only DDD services? For Medicaid state plan services authorized by DDD, see WAC 388-825-068. The following is a list of waiver and state-only services that DDD can authorize and those services that can be either a waiver or a state-only service:

(1) **Waiver personal care services that are not available with state-only funds include:**

- (a) In-home services;
- (b) Adult family home; and
- (c) Adult residential care.

(2) **Waiver services that can be funded as state-only services:**

- (a) Behavior management and consultation;
- (b) Community transition;
- (c) Environmental accessibility adaptations;
- (d) Medical equipment and supplies;
- (e) Occupational therapy;
- (f) Physical therapy;
- (g) Respite care;
- (h) Sexual deviancy evaluation;
- (i) Skilled nursing;
- (j) Specialized medical equipment or supplies;
- (k) Specialized psychiatric services;
- (l) Speech, hearing and language therapy;
- (m) Staff/family consultation and training;
- (n) Transportation/mileage;
- (o) Residential habilitation services (RHS), including:
 - (i) Alternative living;
 - (ii) Companion homes;
 - (iii) Supported living;
 - (iv) Group home;
 - (v) Child foster care;
 - (vi) Child group care;
 - (vii) Staffed residential; and
 - (viii) State operated SL;
- (p) Employment/day programs, including:
 - (i) Community access;

- (ii) Community guide;
- (iii) Person-to-person;
- (iv) Prevocational services; and
- (v) Supported employment;
- (q) ITEIP/County programs, including child development services;
- (r) Mental health stabilization services, including:
 - (i) Behavior management and consultation;
 - (ii) Mental health crisis; and
 - (iii) Skilled nursing; and
 - (s) Specialized psychiatric services.
- (3) **State-only services that are not available as a waiver service:**
 - (a) Adult day care;
 - (b) Architectural and vehicle modification;
 - (c) Attendant care;
 - (d) Child care for foster children;
 - (e) Chore services;
 - (f) Community services grant;
 - (g) Individual and family assistance;
 - (h) Information/education;
 - (i) Medical and dental services;
 - (j) Medical insurance co-pays and costs exceeding other coverage;
 - (k) Parent and sibling education;
 - (l) Parent training and counseling;
 - (m) Psychological counseling;
 - (n) Recreational opportunities;
 - (o) State supplementary payments;
 - (p) Specialized clothing;
 - (q) Specialized nutrition;
 - (r) Supported living;
 - (s) Training of the client;
 - (t) Transportation - cost of escort service or travel time;
- and
 - (u) Reimbursement to families for the purchase of approved items or services.

NEW SECTION

WAC 388-825-084 What are the limitations of state-only funded services or programs? In addition to any limitations for state-only funded services or programs that are contained in the program specific rules, the following limitations apply to state-only funded services and programs.

- (1) All state-only funded services are limited by available funding.
- (2) The following programs are closed to new admissions:
 - (a) Adult day care; and
 - (b) Attendant care.
- (3) Chore services are limited to persons who were receiving the service in 1998 and who have continued to receive this service monthly.
- (4) Traditional family support (TFS) is limited to persons enrolled in the program as of May 31, 1996. This program ends on June 30, 2008.
- (5) Family support opportunity (FSO) is limited to persons enrolled in the program from June 1, 1996 through March 27, 2006. This program ends on June 30, 2008.

(6) Family support pilot (FSP) is limited to persons enrolled in the program March 28, 2006 or later. This program ends on June 30, 2008.

NEW SECTION

WAC 388-825-0871 Does DDD provide out-of-home residential services that address the special needs of persons with developmental disabilities? DDD provides the following out-of-home residential services that address the special needs of adults and children with developmental disabilities:

- (1) Contracted and DDD-certified community based residential services for adults;
- (2) Contracted community based services for children; and
- (3) Residential habilitation centers (RHC) for a person of any age who requires ICF/MR or nursing facility care.

NEW SECTION

WAC 388-825-088 Where can I find more information about DDD contracted residential services? The information about DDD contracted residential services is in the following rules:

- (1) Certified community residential services and supports are contained in chapter 388-101 WAC and include information regarding:
 - (a) Group homes (GH);
 - (b) Group training home;
 - (c) Supported living (SL); and
 - (d) State operated living alternative (SOLA).
- (2) Alternative living services are contained in chapter 388-829A WAC;
- (3) Companion home services are contained in chapter 388-829C WAC;
- (4) Voluntary placement program services for children are contained in chapter 388-826 WAC and include information regarding:
 - (a) Foster homes;
 - (b) Group homes;
 - (c) Group training homes;
 - (d) Child placing agencies; and
 - (e) Staffed residential homes.

NEW SECTION

WAC 388-825-089 What is a residential habilitation center (RHC)? A residential habilitation center or RHC is a state-only facility certified to provide ICF/MR services (see chapter 388-837 WAC) and/or nursing facility services (chapter 388-97 WAC) for persons who are eligible clients of DDD. RHCs include:

- (1) Rainier School in Buckley, Washington;
- (2) Francis Hadden Morgan Center in Bremerton, Washington;
- (3) Fircrest School in Shoreline, Washington;
- (4) Yakima Valley School in Selah, Washington; and
- (5) Lakeland Village in Medical Lake, Washington.

NEW SECTION

WAC 388-825-091 Am I eligible for residential habilitation center (RHC) services? You are eligible to receive residential habilitation center (RHC) services if:

- (1) You are currently DDD eligible;
- (2) You choose to receive services in the RHC;
- (3) You need the level of care provided at the RHC; and
- (4) DDD has determined that you can be supported safely in an RHC environment and will not pose a danger to other residents of the RHC.

NEW SECTION

WAC 388-825-093 Can I receive a short term stay at a residential habilitation center (RHC)? If there is capacity at a residential habilitation center (RHC), the vacancies may be available for short term stays.

- (1) Short term stays are limited by available vacancies;
- (2) Short term stays must be included in your individual support plan; and
- (3) Short term stays in excess of thirty days in a calendar year require approval by the director of the division of developmental disabilities.

NEW SECTION

WAC 388-825-094 Can I request to live in an RHC? You may request admission to an RHC at any time.

- (1) Your case/resource manager will update your DDD assessment and gather other information.
- (2) Admission to an RHC requires approval by the director of the division of developmental disabilities or designee.

NEW SECTION

WAC 388-825-096 Will I have to pay for the services DDD authorizes for me? (1) If you live in your own home, you do not pay toward the cost of your services except chore services. You must pay toward the cost of chore services as described in WAC 388-106-0625.

(2) If DDD authorizes you to live in a licensed community residential facility you must pay your room and board costs from your earned and unearned income. You may also be responsible for a portion of the cost of your care.

(a) If you are eligible for and receiving SSI or have SSI related eligibility per WAC 388-475-0100 (2)(a) or (b), you are not required to pay toward the cost of your care if you are living at home or in a community setting.

(b) If you are enrolled in a DDD HCBS waiver you must pay toward the cost of your services as described in WAC 388-515-1510.

(c) If you are not enrolled in a DDD HCBS waiver you must pay toward the cost of your services as described in WAC 388-106-0225.

(3) If you live in a medical institution you must pay toward the cost of your care as described in WAC 388-513-1380. See WAC 388-500-0005 for the definition of a medical institution.

NEW SECTION

WAC 388-825-097 Are any of my expenses deducted from the income available to pay for my care in a licensed facility? After you pay for your room and board costs, some expenses may be deducted from the income available to pay for the cost of your care.

(1) If you have SSI related eligibility the cost of your payee or guardianship service may be deducted as described in chapter 388-79 WAC and WAC 388-475-0800(5).

(2) If you are enrolled in a DDD HCBS waiver refer to WAC 388-515-1510 for rules used to determine allowable deductions.

(3) If you are not enrolled in a DDD HCBS waiver refer to WAC 388-106-0225 for rules used to determine allowable deductions.

NEW SECTION

WAC 388-825-098 Does DDD provide guardianship services? If it appears that you require a guardian to make legal, medical, and/or services decisions and to exercise your appeal rights to department decisions, the division's field services may request that an assistant attorney general initiate and/or assist in guardianship proceedings. The state does not pay the cost of guardianship fees.

REPEALER

The following sections of the Washington Administrative Code are repealed:

| | |
|-----------------|---------------------------------------|
| WAC 388-825-025 | Exemptions. |
| WAC 388-825-045 | Determination for necessary services. |
| WAC 388-825-050 | Individual service plan. |
| WAC 388-825-055 | Authorization of services. |
| WAC 388-825-065 | Financial services. |
| WAC 388-825-080 | Guardianship services. |

WSR 08-12-006
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed May 23, 2008, 3:17 p.m., effective July 1, 2008]

Effective Date of Rule: July 1, 2008.

Purpose: To increase fees for the registration, notice of construction, operating permit, and asbestos programs in order to align with projected operating expenses. Also, to make technical changes/clarifying edits as follows: Add a fee category for large commercial composting operations, remove the MW ratings for electric generation projects and use heat input to determine fees, and remove "sawmills" from the lowest operating permit base fee category.

Citation of Existing Rules Affected by this Order: Amending Regulation I: Sections 5.07, 6.04, and 7.07; and Regulation III: Section 4.03.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 08-08-093 on April 1, 2008.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 22, 2008.

Dennis J. McLerran
Executive Director

AMENDATORY SECTION

REGULATION I SECTION 5.07 ANNUAL REGISTRATION FEES

(a) The Agency shall assess annual fees as set forth in Section 5.07(c) of this regulation for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the program, which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program. Payment of these fees by the owner or operator of a source shall maintain its active registration status (even if it is not actively operating).

(b) Upon assessment by the Agency, registration fees are due and payable within 45 days of the date of the invoice. They shall be deemed delinquent if not fully paid within 45 days of the date of the invoice and shall be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$1,000. Persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than 90 days late with such payments may be subject to a penalty

equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70.94 RCW).

(c) Except as specified in Section 5.07 (d) and (e) of this regulation, registered sources shall be assessed a fee of (~~(\$935)~~) \$1,000, plus the following fees:

(1) Sources subject to a federal emission standard as specified in Section 5.03 (a)(1) of this regulation shall be assessed \$1,750 per subpart of 40 CFR Parts 60-63;

(2) Sources subject to a federally enforceable emission limitation as specified in Section 5.03 (a)(2) or meeting the emission thresholds specified in Section 5.03 (a)(3) of this regulation shall be assessed \$2,000;

(3) Sources subject to the emission reporting requirements under Section 5.05(b) of this regulation shall be assessed (~~(\$23)~~) \$25 for each ton of CO and (~~(\$46)~~) \$50 for each ton of NO_x, PM₁₀, SO_x, HAP, and VOC, based on the emissions reported during the previous calendar year;

(4) Sources with more than one coffee roaster installed on-site that are approved under a Notice of Construction Order of Approval shall be assessed \$2,000; (~~and~~)

(5) Sources of commercial composting with raw materials from off-site and with an installed processing capacity of <100,000 tons per year shall be assessed \$5,000; and(-)

(6) Sources of commercial composting with raw materials from off-site and with an installed processing capacity of ≥100,000 tons per year shall be assessed \$10,000.

(d) Gasoline dispensing facilities shall be assessed the following fees based on their gasoline throughput during the previous calendar year (as certified at the time of payment):

(1) More than 6,000,000 gallons. . . . (~~(\$3,300)~~) \$3,550;

(2) 3,600,001 to 6,000,000 gallons. . . (~~(\$1,650)~~) \$1,765;

(3) 1,200,001 to 3,600,000 gallons. . . (~~(\$1,100)~~) \$1,175;

(4) 840,001 to 1,200,000 gallons. (~~(\$550)~~) \$590;

(5) 200,001 to 840,000 gallons. (~~(\$275)~~) \$295.

(e) The following registered sources shall be assessed an annual registration fee of (~~(\$140)~~) \$120, provided that they meet no other criteria listed in Section 5.03(a) of this regulation:

(1) Sources with spray-coating operations subject to Section 9.16 of this regulation that use no more than 4,000 gallons per year of total coatings and solvents;

(2) Gasoline dispensing facilities subject to Section 2.07 of Regulation II with gasoline annual throughput during the previous calendar year (as certified at the time of payment) of no more than 200,000 gallons;

(3) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II;

(4) Unvented dry cleaners subject to Section 3.03 of Regulation III; and

(5) Batch coffee roasters subject to notification under Section 6.03 (b)(11) of this regulation.

AMENDATORY SECTION

REGULATION I SECTION 6.04 NOTICE OF CONSTRUCTION FEES

(a) A Notice of Construction application is incomplete until the Agency has received fees as shown below:

| | |
|---|-----------------------------------|
| Filing Fee (for each application, to be paid prior to any review) | (\$750) <u>\$1,000</u> |
| (Spray Coating Booth (commercially manufactured)) | \$250 |
| Coffee Roaster (less than 40 pounds/batch, with thermal oxidizer) | \$500 |
| Hot Mix Asphalt Batch Plant | \$7,000 |
| Soil Thermal Desorption Unit | \$5,000 |
| Electric Generation Project: (combined heat input capacity) | |
| 10 - 100 million Btu/hr ((2.9 - 29 MW))) | \$5,000 |
| 101 - 250 million Btu/hr ((29 - 73 MW))) | \$10,000 |
| >250 million Btu/hr ((73 MW))) | \$25,000 |
| Composting Facility | \$10,000 |
| Commercial Solid Waste Handling Facility | \$10,000 |
| Landfill Gas System | \$2,500 |
| Refuse Burning Equipment: (rated charging capacity) | |
| ≤12 tons per day | \$5,000 |
| >12 tons and ≤250 tons per day | \$20,000 |
| >250 tons per day | \$50,000 |
| Other (not listed above) for each Piece of Equipment and Control Equipment | \$500 |
| Additional Charges (for each application): | |
| SEPA Threshold Determination ((\$500)) | <u>\$700</u> |
| (DNS, under Regulation I, Section 2.04) | |
| SEPA Threshold Determination | \$1,500 |
| (MDNS, under Regulation I, Section 2.07) | |
| Public Notice | \$500 |
| (under WAC 173-400-171)(+ publication costs) | |
| <u>Public Hearing</u> | <u>\$500</u> |
| (under WAC 173-400-171) (+ publication costs, if separate public notice) | |
| NSPS or NESHAP | \$1,000 |
| (per subpart of 40 CFR Parts 60, 61, and 63) | |
| Refined Dispersion Modeling Analysis ((\$500)) | <u>\$700</u> |
| (under Regulation III, Section 2.07 (c)(2)) | |
| Major Source, Major Modification, or Emission Increases Greater than Prevention of Significant Deterioration (PSD) Thresholds | \$5,000 |
| (under WAC 173-400-112 or WAC 173-400-113) (+ Ecology fees) | |
| An Agency request for an Inapplicability Determination for PSD Program Requiring Written Applicability Determination from Ecology | \$5,000 |
| Construction or Reconstruction of a Major Source of Hazardous Air Pollutants (see 40 CFR 63.2) | \$2,500 |
| Tier II Air Toxics Review | \$5,000 |
| (under WAC 173-460-090)(+ Ecology fees) | |
| Opacity/Grain Loading Correlation | \$5,000 |

(b) A notification under Section 6.03 (b)(1) through Section 6.03 (b)(9) and 6.03 (b)(11) of this regulation is incomplete until the Agency has received a fee of \$100. An application processed as a Notice of Construction exemption under Section 6.03 (b)(10) requires payment of the Notice of Construction filing fee only. An application for coverage under a general order of approval issued by this Agency is not subject to the fees in Section 6.04(a) and instead requires payment of a \$500 fee, which is due prior to any review of the application.

(c) The Control Officer is authorized to enter into a written cost-reimbursement agreement with an applicant as provided in RCW 70.94.085.

(d) Additional Fee for Service - Second Incomplete Application

Upon receipt of a second incomplete Notice of Construction application from the same applicant for the same project, the Control Officer may cease review of the application and provide written notification of that determination. The Control Officer may resume review of the application if, within 30 days of the date of the notification describing the Agency's receipt of the second incomplete Notice of Construction application, the applicant has deposited \$1,000 with the Agency, and executed a fee-for-service agreement with the Agency that allows the Agency to recover the reasonable direct and indirect costs that arise from processing the Notice of Construction application, including the requirements of other relevant laws such as the Washington State Environmental Policy Act (SEPA).

The agreement shall require that the applicant assume full responsibility for paying the Agency for the costs incurred under the fee-for-service agreement. The Agency shall credit the \$1,000 deposit made by the applicant towards the costs required by a fee-for-service agreement. The fee-for-service agreement may require the applicant to make progress payments during the application review period. The \$1,000 deposit referred to in this section and the costs provided for in a fee-for-service agreement are in addition to the fees required in Section 6.04(a).

If the applicant has not made a \$1,000 deposit and executed such a fee-for-service agreement within 30 days of the date of the notification from the Agency describing its receipt of a second incomplete application, the Agency may issue an Intent to Disapprove an Application.

The \$1,000 deposit required under this section is not refundable. In addition, any payments made to the Agency under a fee-for-service agreement are not refundable.

(e) Additional Fee - Revised Application

The Control Officer may assess an additional fee for processing a Notice of Construction application when a subsequent significantly revised application is submitted after the original application was determined to be complete and prior to the Agency issuing an Order of Approval or Intent to Disapprove an Application regarding the original application. The revision fee shall be the amount of the fee that was charged for the original Notice of Construction application, including the filing fee. The resulting total fee is the fee for the original Notice of Construction application plus the revision fee.

AMENDATORY SECTION

REGULATION I SECTION 7.07 OPERATING PERMIT FEES

(a) The Agency shall assess annual operating permit fees as set forth in Section 7.07(b) below to cover the cost of administering the operating permit program.

(b) Upon assessment by the Agency, the following annual operating permit fees are due and payable within 45 days of the invoice date. They shall be deemed delinquent if not fully paid within 90 days of the date of the invoice and will be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$5,000. In addition, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than 90 days late with such payments may be subject to a penalty equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70.94 RCW).

(1) Sources in the following North American Industry Classification System (NAICS) codes (*North American Industry Classification System Manual*, U.S. Executive Office of the President, Office of Management and Budget, 1997), or sources subsequently determined by the control officer to be assigned to either Section 7.07 (b)(1)(i) or 7.07 (b)(1)(ii) shall be subject to the following facility fees:

(i) Operating permit sources with the following NAICS codes:

| NAICS | NAICS Description | Fee |
|--------|--|---------------------------------------|
| 221112 | Fossil Fuel Electric Power Generation | |
| 324110 | Petroleum Refineries | |
| 327213 | Glass Container Manufacturing | |
| 327310 | Cement Manufacturing | |
| 331111 | Iron and Steel Mills | |
| 336411 | Aircraft Manufacturing | |
| 336413 | Other Aircraft Parts and Auxiliary Equipment Manufacturing | |
| 928110 | National Security | |
| | | (\$40,000) <u>\$44,000</u> |

(ii) Operating permit sources with the following NAICS codes:

| NAICS | NAICS Description | Fee |
|---------------------|--|-----|
| 311119 | Other Animal Food Manufacturing | |
| 311812 | Commercial Bakeries | |
| (321113) | Sawmills | |
| 321912 | Cut Stock, Resawing Lumber, and Planing | |
| 321918 | Other Millwork (including Flooring) | |
| 321999 | All Other Miscellaneous Wood Product Manufacturing | |
| 322222 | Coated and Laminated Paper Manufacturing | |

| | | |
|--------|--|---------------------------------------|
| 326140 | Polystyrene Foam Product Manufacturing | |
| 327121 | Brick and Structural Clay Tile Manufacturing | |
| 332996 | Fabricated Pipe and Pipe Fitting Manufacturing | |
| | | (\$10,000) <u>\$11,000</u> |

(iii) Operating permit sources with NAICS codes other than listed above. ~~(\$20,000)~~ \$22,000

(2) Additional emission rate fees shall be paid in addition to the annual operating permit fees of Section 7.07 (b)(1):

~~(\$23)~~ \$25 for each ton of CO reported in the previous calendar year, and

~~(\$46)~~ \$50 for each ton of NOx reported in the previous calendar year, and

~~(\$46)~~ \$50 for each ton of PM10 reported in the previous calendar year, and

~~(\$46)~~ \$50 for each ton of SOx reported in the previous calendar year, and

~~(\$46)~~ \$50 for each ton of VOC reported in the previous calendar year, and

~~(\$46)~~ \$50 for each ton of HAP reported in the previous calendar year.

(c) In addition to the fees under Sections 7.07 (b)(1) and (b)(2) above, the Agency shall, on a source-by-source basis, assess the following fees:

(1) \$250 for administrative permit amendments [WAC 173-401-720], and

(2) for minor permit modifications [WAC 173-401-725 (2) and (3)], a fee equal to 10% of the annual operating permit fee, not to exceed \$5,000, and

(3) for the original issuance [WAC 173-401-700], significant modification [WAC 173-401-725(4)], reopening for cause [WAC 173-401-730], or renewal [WAC 173-401-710] of an operating permit, a fee equal to 20% of the annual operating permit fee, not to exceed \$10,000, and

(4) to cover the costs of public involvement under WAC 173-401-800, and

(5) to cover the costs incurred by the Washington State Department of Health in enforcing 40 CFR Part 61, Subpart I and chapter 246-247 WAC.

(d) In addition to the fees described under Sections 7.07 (b) and (c) above, the Agency shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology under chapter 173-401 WAC to cover the Department of Ecology's program development and oversight costs.

(e) Continued payment to the Agency of the annual operating permit fee maintains the operating permit and the status of the source as an operating facility.

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

AMENDATORY SECTION

REGULATION III SECTION 4.03 ASBESTOS NOTIFICATION REQUIREMENTS

(a) General Requirements

It shall be unlawful for any person to cause or allow any work on an asbestos project or demolition unless a complete notification, including the appropriate nonrefundable fee and any additional information requested by the Control Officer, has been submitted to the Agency in accordance with the waiting period and fee requirements in Section 4.03(d) of this regulation. Except for the annual notification requirements in Section 4.03 (a)(8) of this regulation, the notification must be submitted on approved forms through the Agency website.

(1) The duration of an asbestos project shall be commensurate with the amount of work involved.

(2) Notification is not required for asbestos projects involving less than 10 linear feet of friable, asbestos-containing material on pipes and/or 48 square feet of friable, asbestos-containing material on other components (per structure, building, or vessel, per calendar year).

(3) Notification is not required for removal and disposal of nonfriable, asbestos-containing material.

(4) Notification is required for all demolitions involving structures with a projected roof area greater than 120 square feet, even if no asbestos-containing material is present.

(5) All demolitions require a 10-day waiting period unless waived under Section 4.03 (c)(1) of this regulation.

(6) A printout of the notification, all amendments to the notification, and the asbestos survey shall be available for inspection at all times at the asbestos project or demolition site.

(7) A notification for multiple asbestos projects or demolitions may be submitted on one form if the structures are located in a contiguous area.

(8) Annual Notification

A property owner may file one annual notification for asbestos projects to be conducted on one or more structures, vessels, or buildings during each calendar year if all of the following conditions are met:

(A) The annual notification shall be filed with the Agency before commencing work on any asbestos project included in an annual notification;

(d) Waiting Period and Fees

(B) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this section is less than 260 linear feet on pipes and/or less than 160 square feet on other components; and

(C) The property owner submits quarterly written reports to the Control Officer on Agency-approved forms within 15 days after the end of each calendar quarter.

(b) Amendments

(1) An amendment shall be submitted to the Control Officer in a notification through the Agency website for the following changes and shall be accompanied by the appropriate nonrefundable fee as set forth in Section 4.03(d) of this regulation:

(A) Changes between asbestos and demolition project types;

(B) Increases in the job size category that increase the fee;

(C) Changes in the start date; or

(D) Changes in the completion date.

(2) Amendments may not be used to add or change project site addresses listed on a previously submitted notification.

(c) Emergencies

(1) The waiting period may be waived if an asbestos project or demolition must be conducted immediately because of any of the following:

(A) There was a sudden, unexpected event that resulted in a public health or safety hazard;

(B) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage;

(C) Asbestos-containing materials were encountered that were not identified during the asbestos survey; or

(D) The project must proceed to avoid imposing an unreasonable burden.

(2) The waiting period and fees may be waived for disposal of abandoned, (without the knowledge or consent of the property owner) friable, asbestos-containing material by written approval of the Control Officer.

| Project | Waiting Period | Asbestos Fee | Demolition Fee |
|---|---|---------------------------------|-------------------------------|
| Single-Family Residence: | | | |
| • Asbestos Project | prior written notification | (\$25) <u>\$30</u> | |
| • Demolition (with or without asbestos project) | 10 days | \$0 | (\$50) <u>\$75</u> |
| Other than Single-Family Residence: | | | |
| • less than 10 linear ft and/or • less than 48 square ft | 10 days for demolition | \$0 | (\$50) <u>\$75</u> |
| • 10 - 259 linear ft and/or 48 - 159 square ft | prior written notification for asbestos | (\$50) <u>\$75</u> | |
| | 10 days for demolition | | (\$50) <u>\$75</u> |
| • 260 - 999 linear ft and/or 160 - 4,999 square ft | 10 days | (\$200) <u>\$250</u> | (\$50) <u>\$75</u> |

| Project | Waiting Period | Asbestos Fee | Demolition Fee |
|---|----------------------------|--------------------------------------|-------------------------------------|
| • 1,000 + linear ft and/or 5,000 + square ft | 10 days | ((\$600) <u>\$750</u>) | ((\$50) <u>\$100</u>) |
| Emergency - 4.03(c)* | prior written notification | applicable fees + \$50 | |
| Amendment - 4.03(b) | prior written notification | applicable fees + \$25 | |
| Annual Notice of Intent - 4.03 (a)(8) | prior written notification | \$1,000 | |

*Single-family residences are exempt from the emergency fee.

WSR 08-12-012
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Health and Recovery Services Administration)
 [Filed May 27, 2008, 11:59 a.m., effective June 27, 2008]

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

Purpose: The purpose of this new rule, WAC 388-502-0270, is to provide a single process for those disputes reviewed by the department of social and health services' health and recovery services administration's deputy assistant secretary.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 08-08-115 on April 2, 2008.

Changes Other than Editing from Proposed to Adopted Version: Added the word "review" to subsection (3) When the department receives a timely dispute review request, the deputy or designee may schedule a dispute review conference.

A final cost-benefit analysis is available by contacting Brian Jenson, P.O. Box 45504, Olympia, WA 98504-5504, phone (360) 725-1585, fax (360) 586-9727, e-mail jenseb@dshs.wa.gov.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 27, 2008.

Robin Arnold-Williams
Secretary

NEW SECTION

WAC 388-502-0270 Review of department's provider dispute decision. (1) This section applies only when

department rules allow review of a department dispute decision under this section. The deputy assistant secretary of the health and recovery services administration (HRSA) or designee conducts the review.

(2) Providers and former providers may request a review of a department dispute decision. The request must be in writing and sent to: HRSA, Attn: Deputy Assistant Secretary, PO Box 45504, Olympia, WA 98504-5504. The department must receive the written dispute review request within twenty-eight calendar days of the date on the department's written dispute decision.

(3) When the department receives a timely dispute review request, the deputy or designee may schedule a dispute review conference. "Dispute review conference" means an informal conference for the purpose of resolving disagreements between the department and a provider or former provider who is dissatisfied with a department decision. The dispute review conference is not governed by the administrative procedure act, chapter 34.05 RCW. If the deputy or designee chooses to schedule a dispute review conference, the deputy or designee will conduct the conference within ninety calendar days of the dispute review request unless the deputy or designee and the party requesting review agree to an extension.

(4) The deputy or designee will issue a dispute review decision to the provider or former provider requesting review within thirty calendar days of receiving the dispute review request or within thirty calendar days of the dispute review conference, whichever is later, unless both parties agree to an extension.

(5) The deputy review is the final level of department review for disputes to which this section applies.

WSR 08-12-015
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 27, 2008, 2:30 p.m., effective June 30, 2008]

Effective Date of Rule: June 30, 2008.

Purpose: The purpose of this rule making is to make clarification and technical changes to the board of boiler rules - substantive (chapter 296-104 WAC) based on actions and requests of the board of boiler rules. The changes include:

- Removing the board's responsibilities for national board (NB) exams and allowing the boiler chief to accept applications for board approved criteria.
- Extending the periods between boiler internal inspections to companies with owner/user inspection programs.
- Additional safety requirements added to the preparation necessary prior to internal inspection.
- A 5.53% fee increase, which is the office of financial management's maximum allowable fiscal growth rate factor for fiscal year 2008 as approved by the legislature. The fee increase will help cover the cost of the ongoing services for the boiler program.

Citation of Existing Rules Affected by this Order: Amending WAC 296-104-010 Administration—What are the definitions of terms used in this chapter?, 296-104-050 Administration—What are the requirements for a boiler inspector?, 296-104-100 Inspection—How often must boilers and unfired pressure vessels be inspected?, 296-104-155 Inspection—What preparations are necessary prior to internal inspections?, 296-104-200 Construction—What are the standards for new construction?, 296-104-330 Installation—What are the relief or safety valve requirements when pressure reducing valves are used?, and 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses?

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040, 70.79.150, 70.79.290, 70.79.330, and 70.79.350.

Adopted under notice filed as WSR 08-08-076 on April 1, 2008.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-104-050, updated the API-510 to the ninth edition; WAC 296-104-100, reworded when power boilers need to be inspected for clarity; WAC 296-104-155(6), removed "in inspected" from the last sentence; and WAC 296-104-700, increased the certificate of inspection fee to \$20.70.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 7, Repealed 0.

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

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

Date Adopted: May 27, 2008.

Steven E. Bacon, Chair
Board of Boiler Rules

AMENDATORY SECTION (Amending WSR 06-24-042, filed 11/30/06, effective 1/1/07)

WAC 296-104-010 Administration—What are the definitions of terms used in this chapter? "Agriculture purposes" shall mean any act performed on a farm in production of crops or livestock, and shall include the storage of such crops and livestock in their natural state, but shall not be construed to include the processing or sale of crops or livestock.

"Attendant" shall mean the person in charge of the operation of a boiler or unfired pressure vessel.

"Automatic operation of a boiler" shall mean automatic unattended control of feed water and fuel in order to maintain the pressure and temperature within the limits set. Controls must be such that the operation follows the demand without interruption. Manual restart may be required when the burner is off because of low water, flame failure, power failure, high temperatures or pressures.

"Board of boiler rules" or "board" shall mean the board created by law and empowered under RCW 70.79.010.

"Boiler and unfired pressure vessel installation/reinstallation permit," shall mean a permit approved by the chief inspector before starting installation or reinstallation of any boiler and unfired pressure vessel within the jurisdiction of Washington.

Owner/user inspection agency's, and Washington specials are exempt from "boiler and unfired pressure vessel installation/reinstallation permit."

"Boilers and/or unfired pressure vessels" - below are definitions for types of boilers and unfired pressure vessels used in these regulations:

- **"Condemned boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified for further use by legal requirements and appropriately marked by an inspector.
- **"Expansion tank"** shall mean a tank used to absorb excess water pressure. Expansion tanks installed in closed water heating systems and hot water supply systems shall meet the requirements of ASME Section IV, HG-709.
- **"Hot water heater"** shall mean a closed vessel designed to supply hot water for external use to the system. All vessels must be listed by a nationally recognized testing agency and shall be protected with an approved temperature and pressure safety relief valve and shall not exceed any of the following limits:
 - * Pressure of 160 psi (1100 kpa);
 - * Temperature of 210 degrees F (99°C);
 - * Capacity of 120 U.S. gallons (454 liters);
 - * Input of 200,000 BTU/hr (58.58 kw). Note that if input exceeds 200,000 BTU/hr (58.58 kw), other terms defined in this section may apply.
 - * Hot water heaters exceeding 200,000 BTU/hr (58.58 kw) must be ASME code stamped.
- **"Low pressure heating boiler"** shall mean a steam or vapor boiler operating at a pressure not exceeding 15 psig or a boiler in which water or other fluid is heated and intended for operation at pressures not

exceeding 160 psig or temperatures not exceeding 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy, excluding lined hot water heaters supplying potable hot water for external use to the system.

- **"Nonstandard boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel that does not bear marking of the codes adopted in WAC 296-104-200.
- **"Power boiler"** shall mean a boiler in which steam or other vapor is generated at a pressure of more than 15 psig for use external to itself or a boiler in which water (~~or other fluid~~) is heated and intended for operation at pressures in excess of 160 psig and/or temperatures in excess of 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy.
- **"Reinstalled boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel removed from its original setting and reset at the same location or at a new location without change of ownership.
- **"Rental boiler"** shall mean any power or low pressure heating boiler that is under a rental contract between owner and user.
- **"Second hand boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.
- **"Standard boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel which bears the marking of the codes adopted in WAC 296-104-200.
- **"Unfired pressure vessel"** shall mean a closed vessel under pressure excluding:
 - * Fired process tubular heaters;
 - * Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices where the primary design considerations and/or stresses are derived from the functional requirements of the device;
 - * Piping whose primary function is to transport fluids from one location to another;
 - * Those vessels defined as low pressure heating boilers or power boilers.
- **"Unfired steam boiler"** shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels, such as used in the manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels.

"Certificate of competency" shall mean a certificate issued by the Washington state board of boiler rules to a person who has passed the tests as set forth in WAC 296-104-050.

"Certificate of inspection" shall mean a certificate issued by the chief boiler inspector to the owner/user of a boiler or unfired pressure vessel upon inspection by an inspector. The boiler or unfired pressure vessel must comply with rules, regulations, and appropriate fee payment shall be made directly to the chief boiler inspector.

"Code, API-510" shall mean the Pressure Vessel Inspection Code of the American Petroleum Institute with addenda and revisions, thereto made and approved by the institute which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"Code, ASME" shall mean the boiler and pressure vessel code of the American Society of Mechanical Engineers with addenda thereto made and approved by the council of the society which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"Code, NBIC" shall mean the National Board Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors with addenda and revisions, thereto made and approved by the National Board of Boiler and Pressure Vessel Inspectors and adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"Commission" shall mean an annual commission card issued to a person in the employ of Washington state, an insurance company or a company owner/user inspection agency holding a Washington state certificate of competency which authorizes them to perform inspections of boilers and/or unfired pressure vessels.

"Department" as used herein shall mean the department of labor and industries of the state of Washington.

"Director" shall mean the director of the department of labor and industries.

"Domestic and/or residential purposes" shall mean serving a private residence or an apartment house of less than six families.

"Existing installations" shall mean any boiler or unfired pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1952.

"Inspection certificate" see "certificate of inspection."

"Inspection, external" shall mean an inspection made while a boiler or unfired pressure vessel is in operation and includes the inspection and demonstration of controls and safety devices required by these rules.

"Inspection, internal" shall mean an inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are open or removed for examination of the interior. An external ultrasonic examination of unfired pressure vessels less than 36" inside diameter shall constitute an internal inspection.

"Inspector" shall mean the chief boiler inspector, a deputy inspector, or a special inspector.

- **"Chief inspector"** shall mean the inspector appointed under RCW 70.79.100 who serves as the secretary to the board without a vote.
- **"Deputy inspector"** shall mean an inspector appointed under RCW 70.79.120.
- **"Special inspector"** shall mean an inspector holding a Washington commission identified under RCW 70.79.130.

"**Nationwide engineering standard**" shall mean a nationally accepted design method, formulae and practice acceptable to the board.

"**Operating permit**" see "certificate of inspection."

"**Owner**" or "**user**" shall mean a person, firm, or corporation owning or operating any boiler or unfired pressure vessel within the state.

"**Owner/user inspection agency**" shall mean an owner or user of boilers and/or pressure vessels that maintains an established inspection department, whose organization and inspection procedures meet the requirements of a nationally recognized standard acceptable to the department.

"**Place of public assembly**" or "**assembly hall**" shall mean a building or portion of a building used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, or dining or waiting transportation. This shall also include child care centers (those agencies which operate for the care of thirteen or more children), public and private hospitals, nursing and boarding homes.

"**Special design**" shall mean a design using nationwide engineering standards other than the codes adopted in WAC 296-104-200 or other than allowed in WAC 296-104-230.

AMENDATORY SECTION (Amending WSR 04-21-069, filed 10/19/04, effective 1/1/05)

WAC 296-104-050 Administration—What are the requirements for a boiler inspector? ~~((In order to qualify as a prospective National Board Commissioned Inspector an applicant shall meet the minimum requirements as set forth in the national board's "Rules for Commissioned Inspectors," NB263, Revision 8 (4/02).))~~ Application for examination for a Washington state certificate of competency shall be in writing upon a form to be furnished by the chief inspector stating the school and education of the applicant, a list of employers, period of employment and position held with each employer. Applications containing willful falsification or untruthful statements shall be rejected.

In order to qualify as a prospective inspector, an applicant shall meet the minimum requirements as set forth in the national board's "Rules for Commissioned Inspectors," NB263, Revision 17 (02/07) or API-510 (ninth edition), as appropriate.

If the applicant's history and experience meet with the approval of the chief inspector based on the board of boiler rules approved criteria, the candidate shall be given the ~~((national board examination and the))~~ Washington state examination. If the applicant is accepted on the merits of these examinations or as provided for in WAC 296-104-065, and the applicant is in possession of a national board commission or API-510 certification, as appropriate, a Washington state certificate of competency will be issued by the chief inspector.

For those applicants sitting for the national board examination in conjunction with the Washington state examination, a certificate of competency will be issued by the chief inspector upon receipt of a valid national board commission.

Examinations shall be held at locations and times when considered necessary by the ~~((board of boiler rules))~~ chief

inspector. The examinations may be offered four times each year, namely, the first Wednesday and following Thursday of the months of March, June, September and December. Special examinations may be held when considered necessary by the ~~((board of boiler rules))~~ chief inspector.

AMENDATORY SECTION (Amending WSR 04-21-069, filed 10/19/04, effective 1/1/05)

WAC 296-104-100 Inspection—How often must boilers and unfired pressure vessels be inspected? In accordance with RCW 70.79.080, 70.79.090, and 70.79.240 the following inspection requirements shall apply:

(1) **Power boilers** shall be inspected:

(a) ~~((Internally and))~~ Externally while ~~((not))~~ under pressure - Annually.

(b) Internally and externally while not under pressure - Annually, except as noted in the following paragraph.

A power boiler in a national board accredited owner-user inspection program may have the internal inspection intervals extended by the owner-user inspection organization to five years maximum under the following conditions:

(i) The boiler water treatment and specific chemical limits are prescribed and monitored by an individual or company that specializes in the water treatment field;

(ii) Nondestructive examination (NDE) is performed along with the internal inspections;

(iii) The boiler is monitored within a manned operating facility;

(iv) Inspection, maintenance, and water treatment records are maintained;

(v) There is sufficient inspection history for the boiler or a boiler in similar service to justify the increase in the inspection interval; and

(vi) This provision shall not apply to a black liquor recovery boiler or any boiler with an unsuitable corrosion rate, remaining life, and/or repair history.

(2) **Organic vapor boilers** shall be inspected:

(a) ~~((Internally and externally while not under pressure—Biennially.))~~ Externally while under pressure - Annually.

(b) ~~((Externally while under pressure—Annually.))~~ Internally and externally while not under pressure - Biennially.

(3) **Low pressure heating boilers** shall be inspected:

(a) Externally while in operation and under pressure - Biennially.

(b) Where construction permits, internally while not under pressure. Also, as a minimum, an internal of their low water fuel cutoff(s) must be completed, where construction permits - Biennially.

(4) **Hot water heaters** shall be inspected:

(a) Externally - Biennially.

(b) Internally - None required.

(5) **Unfired pressure vessels** shall be inspected:

(a) Externally - Biennially.

(b) Internally:

(i) When subject to corrosion and construction permits - Biennially. Vessels in an owner(~~(+)~~)-user inspection program may follow intervals established by the NBIC or API-510 (~~((eighth))~~ ninth edition with addenda, provided nondestructive

tive examination (NDE) is performed at the biennial external inspection.

(ii) Pulp or paper dryer rolls may be inspected on a five-year basis in accordance with TAPPI TIP 0402-16 2001 edition, provided the owner has established a written inspection program accepted by the inspector that meets the minimum requirements of TAPPI TIP 0402-16 2001 edition.

(iii) Vessels not subject to corrosion do not require an internal.

AMENDATORY SECTION (Amending WSR 02-23-036, filed 11/13/02, effective 12/14/02)

WAC 296-104-155 Inspection—What preparations are necessary prior to internal inspections? The owner or user has the responsibility to prepare a pressure-retaining item for internal inspection. Requirements of occupational safety and health regulations (federal, state, local, or other), as well as the owner or user's own safety program and the safety program of the inspector's employer are applicable. In the absence of such rules, prudent and generally accepted engineering safety procedures satisfactory to the inspector shall be employed by the owner or user.

The owner or user shall prepare a boiler for internal inspection in the following manner or as required by the inspector:

(1) Water shall be drawn off and the boiler thoroughly washed (when a boiler is being prepared for internal inspection, the water should not be withdrawn until it has been sufficiently cooled).

(2) All manhole and handhole plates and wash-out plugs and water column connections shall be removed, the furnace and combustion chambers thoroughly cooled and cleaned.

(3) All grates of internally fired boilers shall be removed.

(4) At each annual inspection brickwork shall be removed as required by the inspector in order to determine the condition of the boiler headers, drums, furnace, supports, or other parts.

(5) The steam gauge shall be removed for testing or evidence of testing shown.

(6) Any leakage of steam or water into the boiler shall be prevented by either disconnecting the pipe or block valve at the most convenient point or installing isolation blinds. The owner or user must ensure that an effective energy isolation program (lock out and/or tag out) is in place and in effect that will prevent the unexpected energizing, start up, or release of stored energy.

The inspector shall determine that a safe atmosphere exists before entering the boiler or pressure-retaining item.

(7) The low water cutout shall be disassembled to such a degree as the inspector shall require.

(8) Pressure Relief devices shall be removed and tested if required by the inspector.

Unfired pressure vessels shall be prepared for internal inspection to the extent deemed necessary by the inspector.

AMENDATORY SECTION (Amending WSR 06-24-042, filed 11/30/06, effective 1/1/07)

WAC 296-104-200 Construction—What are the standards for new construction? The standards for new construction are:

(1) ASME Boiler and Pressure Vessel Code, ~~((2004))~~ 2007 edition, with addenda Sections I, III, IV, VIII, Division 1, 2, 3, X, XII;

(2) ASME PVHO-1 ~~((2002-2003))~~ 2007 Safety Standard for Pressure Vessels for Human Occupancy; and

(3) ASME CSD-1 2004 edition with addenda (as referenced in WAC 296-104-302); and

(4) NFPA 85 Boiler and Combustion Systems Hazards Code 2004 edition (for use with boilers with fuel input ratings of 12, 500,000 BTU/hr) or greater; and

(5) Standards of construction approved by the chief inspector and meeting the National Board Criteria for Registration of Boilers, Pressure Vessels and Other Pressure Retaining Items.

These codes and standards may be used on or after the date of issue and become mandatory twelve months after adoption by the board as specified in RCW 70.79.050(2). ASME Code Cases may be approved for use when accepted by the chief inspector. The board recognizes that the ASME Code states that new editions of the code become mandatory on issue and that subsequent addenda become mandatory six months after the date of issue. For nuclear systems, components and parts the time period for addenda becoming mandatory is defined in the Code of Federal Regulations.

AMENDATORY SECTION (Amending WSR 97-20-109, filed 9/30/97, effective 10/31/97)

WAC 296-104-330 Installation—What are the relief or safety valve requirements when pressure reducing valves are used? (1) Where pressure reducing valves are used, one or more relief or safety valve(s) and pressure gauge(s) shall be provided on the low pressure side of the reducing valve. The relief or safety valve(s) shall be located as close as possible to the reducing valve. The combined discharge capacity of the relief valves shall be such that the pressure rating of the lower pressure piping or equipment shall not be exceeded in case the reducing valve sticks open. Discharge lines shall comply with WAC ~~((296-104-310))~~ 296-104-320.

(2) The use of hand-controlled bypasses around reducing valves is permissible. The bypass shall not be greater in capacity than the reducing valve unless the piping or equipment is adequately protected by a relief valve(s) or meets the requirements of the high pressure system.

AMENDATORY SECTION (Amending WSR 07-11-137, filed 5/22/07, effective 6/30/07)

WAC 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses? The following fees shall be paid by, or on behalf of, the owner or user upon the completion of the inspection. The inspection fees apply to inspections made by inspectors employed by the state.

| | | |
|---|--------------------------------------|--------------------------------------|
| Heating boilers: | Internal | External |
| Cast iron—All sizes | \$(33.00) <u>34.80</u> | \$(26.40) <u>27.80</u> |
| All other boilers less than 500 sq. ft. | \$(39.60) <u>27.80</u> | \$(26.40) <u>27.80</u> |
| 500 sq. ft. to 2500 sq. ft. | \$(65.80) <u>69.40</u> | \$(33.00) <u>34.80</u> |
| Each additional 2500 sq. ft. of total heating surface, or any portion thereof | \$(26.40) <u>27.80</u> | \$(13.00) <u>13.70</u> |
| Power boilers: | Internal | External |
| Less than 100 sq. ft. | \$(33.00) <u>34.80</u> | \$(26.40) <u>27.80</u> |
| 100 sq. ft. to less than 500 sq. ft. | \$(39.90) <u>42.10</u> | \$(26.40) <u>27.80</u> |
| 500 sq. ft. to 2500 sq. ft. | \$(65.80) <u>69.40</u> | \$(33.00) <u>34.80</u> |
| Each additional 2500 sq. ft. of total heating surface, or any portion thereof | \$(26.40) <u>27.80</u> | \$(13.00) <u>13.70</u> |
| Pressure vessels: | | |
| Automatic utility hot water supply heaters per RCW 70.79.090 | | \$(6.20) <u>6.50</u> |
| All other pressure vessels: | | |
| Square feet shall be determined by multiplying the length by the diameter of the shell by its diameter. | | |
| Less than 15 sq. ft. | \$(26.40) <u>27.80</u> | \$(19.70) <u>20.70</u> |
| 15 sq. ft. to less than 50 sq. ft. | \$(39.20) <u>41.30</u> | \$(19.70) <u>20.70</u> |
| 50 sq. ft. to 100 sq. ft. | \$(45.60) <u>48.10</u> | \$(26.40) <u>27.80</u> |
| For each additional 100 sq. ft. or any portion thereof | \$(45.60) <u>48.10</u> | \$(13.00) <u>13.70</u> |
| Certificate of inspection fees: For objects inspected, the certificate of inspection fee is \$(19.70) <u>20.70</u> per object. | | |
| Boiler and pressure vessel installation/reinstallation permit (excludes inspection and certificate of inspection fee) | | \$50.00 |
| Nonnuclear shop inspections, field construction inspections, and special inspection services: | | |
| For each hour or part of an hour up to 8 hours | \$(39.90) <u>42.10</u> | |
| For each hour or part of an hour in excess of 8 hours | \$(59.60) <u>62.80</u> | |

| | |
|--|--------------------------------------|
| Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit: | |
| For each hour or part of an hour up to 8 hours | \$(59.60) <u>62.80</u> |
| For each hour or part of an hour in excess of 8 hours | \$(93.10) <u>98.20</u> |
| Nonnuclear triennial shop survey and audit: | |
| When state is authorized inspection agency: | |
| For each hour or part of an hour up to 8 hours | \$(39.90) <u>42.10</u> |
| For each hour or part of an hour in excess of 8 hours | \$(59.60) <u>62.80</u> |
| When insurance company is authorized inspection agency: | |
| For each hour or part of an hour up to 8 hours | \$(59.60) <u>62.80</u> |
| For each hour or part of an hour in excess of 8 hours | \$(93.10) <u>98.20</u> |

Examination fee: A fee of ~~\$(73.70)~~ 77.70 will be charged for each applicant sitting for an inspection examination(s).

Special inspector commission: An initial fee of ~~\$(25)~~ 26.30 and an annual renewal fee of ~~\$(10)~~ 10.50 along with an annual work card fee of ~~\$(15)~~ 15.80.

Expenses shall include:
 Travel time and mileage: The department shall charge for its inspectors' travel time from their offices to the inspection sites and return. The travel time shall be charged for at the same rate as that for the inspection, audit, or survey. The department shall also charge the current Washington office of financial management accepted mileage cost fees or the actual cost of purchased transportation. Hotel and meals: Actual cost not to exceed the office of financial management approved rate.

Requests for Washington state specials and extensions of inspection frequency: For each vessel to be considered by the board, a fee of ~~\$(370.10)~~ 390.50 must be paid to the department before the board meets to consider the vessel. The board may, at its discretion, prorate the fee when a number of vessels that are essentially the same are to be considered.

**WSR 08-12-016
 PERMANENT RULES
 DEPARTMENT OF
 FISH AND WILDLIFE**

[Order 08-118—Filed May 27, 2008, 2:33 p.m., effective June 27, 2008]

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

Purpose: Establishes license reciprocity with Oregon to allow Oregon gill-netters to sell Columbia River sturgeon and salmon in Washington.

Citation of Existing Rules Affected by this Order: Amending WAC 220-20-005 (Amending WSR 07-15-068, filed 7/17/07, effective 8/17/07).

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Adopted under notice filed as WSR 08-09-143 on April 23, 2008.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: May 27, 2008.

Loreva M. Preuss
for Jeff Koenings, PhD
Director

AMENDATORY SECTION (Amending WSR 07-15-068, filed 7/17/07, effective 8/17/07)

WAC 220-20-005 Oregon-Washington commercial license reciprocity. The following Oregon licenses are equivalent to Washington licenses and are valid in the concurrent waters of the Columbia River:

(1) An Oregon Columbia River gill net salmon vessel permit issued under ORS 508.775 - ORS 508.796 is equivalent to a Washington salmon gill net fishery license issued under RCW 77.65.160 (1)(a) or (c) in the concurrent waters of the Columbia River. A person who holds an Oregon Columbia River gill net salmon vessel permit may land salmon and sturgeon in Washington that were taken in the Columbia River salmon gill net salmon fishery.

(2) An Oregon ocean charter vessel license issued under ORS 830.435 is equivalent to a Washington charter license issued under RCW 77.65.150 in the concurrent waters of the Columbia River downstream of the bridge at Longview, except that an Oregon vessel may not take on or discharge passengers for any purpose from any Washington port, the Washington shore, or a dock, landing, or other point in Washington.

(3) An Oregon outfitter and guide registration issued under ORS 704.020 is equivalent to a Washington professional salmon guide license issued under RCW 77.65.370 or to a Washington professional game fish guide license issued under RCW 77.65.480(3), in the concurrent waters of the Columbia River upstream of the bridge at Longview and

downstream of the Oregon boundary in Lake Wallula, except that an Oregon vessel may not take on or discharge passengers for any purpose from any Washington port, the Washington shore, or a dock, landing, or other point in Washington.

WSR 08-12-018

PERMANENT RULES

BOARD OF

PILOTAGE COMMISSIONERS

[Filed May 28, 2008, 12:15 p.m., effective July 1, 2008]

Effective Date of Rule: July 1, 2008.

Purpose: To establish an annual tariff for pilotage services in the Puget Sound pilotage district.

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-300.

Statutory Authority for Adoption: RCW 88.16.035.

Adopted under notice filed as WSR 08-08-069 on March 31, 2008.

Changes Other than Editing from Proposed to Adopted Version: The proposed rule reflects a tariff adjustment in a range between a decrease of 10.3% and an increase of 9.2% across-the-board with the noted exceptions being the *Transportation* and *Training Surcharge* categories. The adopted rule reflects a tariff increase of 4% across-the-board with the above-noted exceptions.

The proposed new category called *British Columbia Direct Transit Charge* consisting of a breakdown of six charges was adopted but not with the range of adjustments as proposed. The adopted rule reflects a 4% increase to all but the two transportation charges to which a 3.9% CPI increase was applied.

None of the proposed amendatory language describing the *LOA Rate Schedule* was adopted.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: May 27, 2008.

Peggy Larson
Administrator

AMENDATORY SECTION (Amending WSR 07-12-028, filed 5/30/07, effective 7/1/07)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours July 1, (~~(2007)~~) 2008, through 2400 hours June 30, (~~(2008)~~) 2009.

| CLASSIFICATION | RATE |
|---|---|
| Ship length overall (LOA) | |
| Charges: | |
| Per LOA rate schedule in this section. | |
| Boarding ((fee)) <u>charge</u> : | ((\$45.00)) <u>\$47.00</u> |
| Per each boarding/deboarding at the Port Angeles pilot station. | |
| Harbor shift - Live ship (Seattle Port) | LOA Zone I |
| Harbor shift - Live ship (other than Seattle Port) | LOA Zone I |
| Harbor shift - Dead ship | Double LOA Zone I |
| Towing charge - Dead ship: | Double LOA Zone |
| LOA of tug + LOA of tow + beam of tow | |

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

| | |
|--|--|
| Compass Adjustment | ((\$326.00)) <u>\$339.00</u> |
| Radio Direction Finder Calibration | ((\$326.00)) <u>\$339.00</u> |
| Launching Vessels | ((\$489.00)) <u>\$509.00</u> |
| Trial Trips, 6 hours or less (minimum ((\$918.00)) <u>\$954.00</u>) | ((\$153.00)) <u>\$159.00</u> per hour |
| Trial Trips, over 6 hours (two pilots) | ((\$306.00)) <u>\$318.00</u> per hour |
| Shilshole Bay – Salmon Bay | ((\$191.00)) <u>\$199.00</u> |
| Salmon Bay – Lake Union | ((\$148.00)) <u>\$154.00</u> |
| Lake Union – Lake Washington (plus LOA zone from Webster Point) | ((\$191.00)) <u>\$199.00</u> |
| Cancellation Charge | LOA Zone I |
| Cancellation Charge – Port Angeles: | LOA Zone II |
| (When a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for a pilot or when a pilot order is canceled less than twelve hours prior to the original ETA.) | |

Waterway and Bridge Charges:*Ships up to 90' beam:*

A charge of (~~(\$240.00)~~) \$250.00 shall be in addition to bridge (~~(fees)~~) charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of (~~(\$114.00)~~) \$119.00 per bridge.

Ships 90' beam and/or over:

A charge of (~~(\$327.00)~~) \$340.00 shall be in addition to bridge (~~(fees)~~) charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of (~~(\$228.00)~~) \$237.00 per bridge.

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

Two or three pilots required:

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

Docking Delay After Anchoring:

Applicable harbor shift rate to apply, plus (~~(\$248.00)~~) \$258.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is (~~(\$248.00)~~) \$258.00 for every hour or fraction thereof.

Sailing Delay:

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is (~~(\$248.00)~~) \$258.00 for every hour or fraction thereof. The assessment of the standby (~~(fee)~~) charge shall not exceed a period of twelve hours in any twenty-four-hour period.

Slowdown:

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of (~~(\$248.00)~~) \$258.00

per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Delayed Arrival – Port Angeles:

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of (~~(\$248.00)~~) \$258.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

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

Tonnage Charges:

0 to 20,000 gross tons:

Additional charge to LOA zone mileage of (~~(\$0.0077)~~) \$0.0080 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:

Additional charge to LOA zone mileage of (~~(\$0.0789)~~) \$0.0821 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:

In excess of 50,000 gross tons, the charge shall be (~~(\$0.0945)~~) \$0.0983 per gross ton.

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

Transportation to Vessels on Puget Sound:

| | |
|--------------------------|----------|
| March Point or Anacortes | \$157.00 |
| Bangor | 153.00 |
| Bellingham | 181.00 |
| Bremerton | 135.00 |
| Cherry Point | 209.00 |
| Dupont | 97.00 |
| Edmonds | 35.00 |
| Everett | 59.00 |

Direct Transit Charge

\$2,046.00

Sailing Delay Charge. Shall be levied for each hour or fraction thereof that the vessel departure is delayed beyond its scheduled departure from a British Columbia port, provided that no charge will be levied for delays of one hour or less and further provided that the charge shall not exceed a period of 12 hours in any 24 hour period.

\$275.00 per hour

Slow Down Charge. Shall be levied for each hour or fraction thereof that a vessel's arrival at a U.S. or BC port is delayed when a vessel chooses not to maintain its normal safe speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater from the arrival time had the vessel maintained its normal safe speed capabilities.

\$275.00 per hour

| | |
|-------------------------------|--------|
| Ferndale | 199.00 |
| Manchester | 131.00 |
| Mukilteo | 53.00 |
| Olympia | 125.00 |
| Point Wells | 35.00 |
| Port Gamble | 185.00 |
| Port Townsend (Indian Island) | 223.00 |
| Seattle | 15.00 |
| Tacoma | 71.00 |

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

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

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

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

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

Delinquent Payment Charge:

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

Nonuse of Pilots:

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

British Columbia Direct Transit Charge:

In the event that a pilot consents to board or disembark a vessel at a British Columbia port, which consent shall not unreasonably be withheld, the following additional charges shall apply in addition to the normal LOA, tonnage and other charges provided in this tariff that apply to the portion of the transit in U.S. waters:

Cancellation Charge. Shall be levied when a pilot arrives at a vessel for departure from a British Columbia port and the job is canceled. The charge is in addition to the applicable direct transit charge, standby, transportation and expenses. \$510.00

Transportation Charge Vancouver Area. Vessels departing or arriving at ports in the Vancouver-Victoria-New Westminster Range of British Columbia. \$476.00

Transportation Charge Outports. Vessels departing or arriving at British Columbia ports other than those in the Vancouver-Victoria-New Westminster Range. \$602.00

Training Surcharge:

((Effective January 20, 2007;)) A surcharge of ((~~\$5.00~~) \$10.00) for each pilot trainee then receiving a stipend pursuant to the training program provided in WAC 363-116-078 shall be added to each pilotage assignment.

LOA Rate Schedule:

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

| (LOA | ZONE I Intra Harbor | ZONE II 0-30 Miles | ZONE III 31-50 Miles | ZONE IV 51-75 Miles | ZONE V 76-100 Miles | ZONE VI 101 Miles & Over |
|-----------|---------------------------|--------------------------|----------------------------|---------------------------|---------------------------|--------------------------------|
| Up to 449 | 238 | 369 | 630 | 939 | 1,264 | 1,640 |
| 450-459 | 248 | 376 | 634 | 953 | 1,285 | 1,649 |
| 460-469 | 250 | 380 | 644 | 969 | 1,302 | 1,656 |
| 470-479 | 259 | 391 | 652 | 988 | 1,306 | 1,659 |
| 480-489 | 266 | 398 | 655 | 1,007 | 1,314 | 1,666 |
| 490-499 | 270 | 403 | 664 | 1,025 | 1,330 | 1,675 |
| 500-509 | 284 | 411 | 674 | 1,037 | 1,340 | 1,685 |
| 510-519 | 286 | 418 | 681 | 1,052 | 1,355 | 1,691 |
| 520-529 | 289 | 433 | 690 | 1,057 | 1,366 | 1,705 |
| 530-539 | 298 | 438 | 699 | 1,069 | 1,388 | 1,724 |
| 540-549 | 303 | 444 | 715 | 1,080 | 1,410 | 1,740 |
| 550-559 | 309 | 460 | 720 | 1,096 | 1,421 | 1,757 |
| 560-569 | 320 | 478 | 734 | 1,106 | 1,434 | 1,773 |
| 570-579 | 327 | 482 | 737 | 1,111 | 1,449 | 1,785 |
| 580-589 | 340 | 489 | 754 | 1,119 | 1,458 | 1,803 |
| 590-599 | 357 | 500 | 759 | 1,125 | 1,479 | 1,824 |
| 600-609 | 369 | 515 | 769 | 1,129 | 1,497 | 1,833 |
| 610-619 | 390 | 520 | 783 | 1,134 | 1,512 | 1,849 |
| 620-629 | 405 | 527 | 789 | 1,147 | 1,529 | 1,871 |
| 630-639 | 424 | 536 | 798 | 1,150 | 1,542 | 1,887 |
| 640-649 | 440 | 548 | 807 | 1,152 | 1,555 | 1,901 |
| 650-659 | 471 | 558 | 821 | 1,162 | 1,574 | 1,920 |
| 660-669 | 481 | 564 | 828 | 1,168 | 1,591 | 1,936 |
| 670-679 | 498 | 579 | 837 | 1,189 | 1,610 | 1,947 |
| 680-689 | 505 | 588 | 848 | 1,199 | 1,623 | 1,966 |
| 690-699 | 520 | 597 | 861 | 1,220 | 1,640 | 2,007 |
| 700-719 | 543 | 617 | 877 | 1,236 | 1,672 | 2,030 |
| 720-739 | 575 | 634 | 899 | 1,253 | 1,705 | 2,063 |
| 740-759 | 597 | 664 | 916 | 1,264 | 1,740 | 2,100 |
| 760-779 | 621 | 686 | 939 | 1,285 | 1,773 | 2,128 |
| 780-799 | 652 | 716 | 953 | 1,302 | 1,803 | 2,165 |
| 800-819 | 678 | 737 | 972 | 1,309 | 1,833 | 2,198 |
| 820-839 | 699 | 763 | 994 | 1,330 | 1,871 | 2,224 |

| (LOA | ZONE I Intra Harbor | ZONE II 0-30 Miles | ZONE III 31-50 Miles | ZONE IV 51-75 Miles | ZONE V 76-100 Miles | ZONE VI 101 Miles & Over |
|----------------------------|---------------------------|--------------------------|----------------------------|---------------------------|---------------------------|--------------------------------|
| 840-859 | 729 | 794 | 1,013 | 1,345 | 1,899 | 2,262 |
| 860-879 | 756 | 821 | 1,032 | 1,380 | 1,936 | 2,294 |
| 880-899 | 783 | 845 | 1,052 | 1,412 | 1,966 | 2,328 |
| 900-919 | 806 | 873 | 1,070 | 1,448 | 2,007 | 2,360 |
| 920-939 | 831 | 899 | 1,096 | 1,479 | 2,028 | 2,392 |
| 940-959 | 861 | 922 | 1,112 | 1,512 | 2,063 | 2,421 |
| 960-979 | 881 | 949 | 1,132 | 1,542 | 2,100 | 2,458 |
| 980-999 | 910 | 972 | 1,151 | 1,574 | 2,128 | 2,489 |
| 1000-1019 | 965 | 1,035 | 1,202 | 1,658 | 2,228 | 2,597 |
| 1020-1039 | 991 | 1,065 | 1,239 | 1,705 | 2,295 | 2,673 |
| 1040-1059 | 1,021 | 1,091 | 1,276 | 1,757 | 2,361 | 2,752 |
| 1060-1079 | 1,052 | 1,130 | 1,313 | 1,810 | 2,435 | 2,834 |
| 1080-1099 | 1,084 | 1,162 | 1,352 | 1,862 | 2,506 | 2,919 |
| 1100-1119 | 1,114 | 1,197 | 1,393 | 1,919 | 2,581 | 3,007 |
| 1120-1139 | 1,149 | 1,235 | 1,436 | 1,975 | 2,659 | 3,096 |
| 1140-1159 | 1,182 | 1,269 | 1,477 | 2,035 | 2,739 | 3,190 |
| 1160-1179 | 1,217 | 1,306 | 1,523 | 2,096 | 2,820 | 3,285 |
| 1180-1199 | 1,255 | 1,346 | 1,567 | 2,159 | 2,906 | 3,384 |
| 1200-1219 | 1,293 | 1,387 | 1,613 | 2,224 | 2,993 | 3,484 |
| 1220-1239 | 1,330 | 1,428 | 1,661 | 2,290 | 3,081 | 3,588 |
| 1240-1259 | 1,369 | 1,470 | 1,710 | 2,358 | 3,174 | 3,695 |
| 1260-1279 | 1,410 | 1,513 | 1,762 | 2,429 | 3,270 | 3,806 |
| 1280-1299 | 1,452 | 1,560 | 1,815 | 2,502 | 3,365 | 3,921 |
| 1300-1319 | 1,496 | 1,604 | 1,868 | 2,576 | 3,467 | 4,037 |
| 1320-1339 | 1,541 | 1,653 | 1,926 | 2,653 | 3,570 | 4,159 |
| 1340-1359 | 1,586 | 1,703 | 1,983 | 2,732 | 3,677 | 4,284 |
| 1360-1379 | 1,634 | 1,752 | 2,041 | 2,815 | 3,786 | 4,410 |
| 1380-1399 | 1,682 | 1,805 | 2,104 | 2,898 | 3,900 | 4,544 |
| 1400-1419 | 1,733 | 1,860 | 2,164 | 2,984 | 4,016 | 4,680 |
| 1420-1439 | 1,784 | 1,915 | 2,230 | 3,074 | 4,138 | 4,820 |
| 1440-1459 | 1,839 | 1,973 | 2,298 | 3,165 | 4,262 | 4,963 |
| 1460-1479 | 1,890 | 2,031 | 2,365 | 3,260 | 4,389 | 5,111 |
| 1480-1499 | 1,948 | 2,091 | 2,436 | 3,357 | 4,519 | 5,264 |
| 1500 & Over | 2,007 | 2,155 | 2,508 | 3,460 | 4,654 | 5,421)) |

| <u>LOA</u> | <u>ZONE</u> I Intra Harbor | <u>ZONE</u> II 0-30 Miles | <u>ZONE</u> III 31-50 Miles | <u>ZONE</u> IV 51-75 Miles | <u>ZONE</u> V 76-100 Miles | <u>ZONE</u> VI 101 Miles & Over |
|------------------|----------------------------------|---------------------------------|-----------------------------------|----------------------------------|----------------------------------|---------------------------------------|
| <u>UP to 449</u> | <u>248</u> | <u>384</u> | <u>655</u> | <u>977</u> | <u>1,315</u> | <u>1,706</u> |
| <u>450 - 459</u> | <u>258</u> | <u>391</u> | <u>659</u> | <u>991</u> | <u>1,336</u> | <u>1,715</u> |
| <u>460 - 469</u> | <u>260</u> | <u>395</u> | <u>670</u> | <u>1,008</u> | <u>1,354</u> | <u>1,722</u> |
| <u>470 - 479</u> | <u>269</u> | <u>407</u> | <u>678</u> | <u>1,028</u> | <u>1,358</u> | <u>1,725</u> |
| <u>480 - 489</u> | <u>277</u> | <u>414</u> | <u>681</u> | <u>1,047</u> | <u>1,367</u> | <u>1,733</u> |
| <u>490 - 499</u> | <u>281</u> | <u>419</u> | <u>691</u> | <u>1,066</u> | <u>1,383</u> | <u>1,742</u> |

| <u>LOA</u> (Length Overall) | <u>ZONE</u> I Intra Harbor | <u>ZONE</u> II 0-30 Miles | <u>ZONE</u> III 31-50 Miles | <u>ZONE</u> IV 51-75 Miles | <u>ZONE</u> V 76-100 Miles | <u>ZONE</u> VI 101 Miles & Over |
|--------------------------------|----------------------------------|---------------------------------|-----------------------------------|----------------------------------|----------------------------------|--|
| <u>500 - 509</u> | <u>295</u> | <u>427</u> | <u>701</u> | <u>1,078</u> | <u>1,394</u> | <u>1,752</u> |
| <u>510 - 519</u> | <u>297</u> | <u>435</u> | <u>708</u> | <u>1,094</u> | <u>1,409</u> | <u>1,759</u> |
| <u>520 - 529</u> | <u>301</u> | <u>450</u> | <u>718</u> | <u>1,099</u> | <u>1,421</u> | <u>1,773</u> |
| <u>530 - 539</u> | <u>310</u> | <u>456</u> | <u>727</u> | <u>1,112</u> | <u>1,444</u> | <u>1,793</u> |
| <u>540 - 549</u> | <u>315</u> | <u>462</u> | <u>744</u> | <u>1,123</u> | <u>1,466</u> | <u>1,810</u> |
| <u>550 - 559</u> | <u>321</u> | <u>478</u> | <u>749</u> | <u>1,140</u> | <u>1,478</u> | <u>1,827</u> |
| <u>560 - 569</u> | <u>333</u> | <u>497</u> | <u>763</u> | <u>1,150</u> | <u>1,491</u> | <u>1,844</u> |
| <u>570 - 579</u> | <u>340</u> | <u>501</u> | <u>766</u> | <u>1,155</u> | <u>1,507</u> | <u>1,856</u> |
| <u>580 - 589</u> | <u>354</u> | <u>509</u> | <u>784</u> | <u>1,164</u> | <u>1,516</u> | <u>1,875</u> |
| <u>590 - 599</u> | <u>371</u> | <u>520</u> | <u>789</u> | <u>1,170</u> | <u>1,538</u> | <u>1,897</u> |
| <u>600 - 609</u> | <u>384</u> | <u>536</u> | <u>800</u> | <u>1,174</u> | <u>1,557</u> | <u>1,906</u> |
| <u>610 - 619</u> | <u>406</u> | <u>541</u> | <u>814</u> | <u>1,179</u> | <u>1,572</u> | <u>1,923</u> |
| <u>620 - 629</u> | <u>421</u> | <u>548</u> | <u>821</u> | <u>1,193</u> | <u>1,590</u> | <u>1,946</u> |
| <u>630 - 639</u> | <u>441</u> | <u>557</u> | <u>830</u> | <u>1,196</u> | <u>1,604</u> | <u>1,962</u> |
| <u>640 - 649</u> | <u>458</u> | <u>570</u> | <u>839</u> | <u>1,198</u> | <u>1,617</u> | <u>1,977</u> |
| <u>650 - 659</u> | <u>490</u> | <u>580</u> | <u>854</u> | <u>1,208</u> | <u>1,637</u> | <u>1,997</u> |
| <u>660 - 669</u> | <u>500</u> | <u>587</u> | <u>861</u> | <u>1,215</u> | <u>1,655</u> | <u>2,013</u> |
| <u>670 - 679</u> | <u>518</u> | <u>602</u> | <u>870</u> | <u>1,237</u> | <u>1,674</u> | <u>2,025</u> |
| <u>680 - 689</u> | <u>525</u> | <u>612</u> | <u>882</u> | <u>1,247</u> | <u>1,688</u> | <u>2,045</u> |
| <u>690 - 699</u> | <u>541</u> | <u>621</u> | <u>895</u> | <u>1,269</u> | <u>1,706</u> | <u>2,087</u> |
| <u>700 - 719</u> | <u>565</u> | <u>642</u> | <u>912</u> | <u>1,285</u> | <u>1,739</u> | <u>2,111</u> |
| <u>720 - 739</u> | <u>598</u> | <u>659</u> | <u>935</u> | <u>1,303</u> | <u>1,773</u> | <u>2,146</u> |
| <u>740 - 759</u> | <u>621</u> | <u>691</u> | <u>953</u> | <u>1,315</u> | <u>1,810</u> | <u>2,184</u> |
| <u>760 - 779</u> | <u>646</u> | <u>713</u> | <u>977</u> | <u>1,336</u> | <u>1,844</u> | <u>2,213</u> |
| <u>780 - 799</u> | <u>678</u> | <u>745</u> | <u>991</u> | <u>1,354</u> | <u>1,875</u> | <u>2,252</u> |
| <u>800 - 819</u> | <u>705</u> | <u>766</u> | <u>1,011</u> | <u>1,361</u> | <u>1,906</u> | <u>2,286</u> |
| <u>820 - 839</u> | <u>727</u> | <u>794</u> | <u>1,034</u> | <u>1,383</u> | <u>1,946</u> | <u>2,313</u> |
| <u>840 - 859</u> | <u>758</u> | <u>826</u> | <u>1,054</u> | <u>1,399</u> | <u>1,975</u> | <u>2,352</u> |
| <u>860 - 879</u> | <u>786</u> | <u>854</u> | <u>1,073</u> | <u>1,435</u> | <u>2,013</u> | <u>2,386</u> |
| <u>880 - 899</u> | <u>814</u> | <u>879</u> | <u>1,094</u> | <u>1,468</u> | <u>2,045</u> | <u>2,421</u> |
| <u>900 - 919</u> | <u>838</u> | <u>908</u> | <u>1,113</u> | <u>1,506</u> | <u>2,087</u> | <u>2,454</u> |
| <u>920 - 939</u> | <u>864</u> | <u>935</u> | <u>1,140</u> | <u>1,538</u> | <u>2,109</u> | <u>2,488</u> |
| <u>940 - 959</u> | <u>895</u> | <u>959</u> | <u>1,156</u> | <u>1,572</u> | <u>2,146</u> | <u>2,518</u> |
| <u>960 - 979</u> | <u>916</u> | <u>987</u> | <u>1,177</u> | <u>1,604</u> | <u>2,184</u> | <u>2,556</u> |
| <u>980 - 999</u> | <u>946</u> | <u>1,011</u> | <u>1,197</u> | <u>1,637</u> | <u>2,213</u> | <u>2,589</u> |
| <u>1000 - 1019</u> | <u>1,004</u> | <u>1,076</u> | <u>1,250</u> | <u>1,724</u> | <u>2,317</u> | <u>2,701</u> |
| <u>1020 - 1039</u> | <u>1,031</u> | <u>1,108</u> | <u>1,289</u> | <u>1,773</u> | <u>2,387</u> | <u>2,780</u> |
| <u>1040 - 1059</u> | <u>1,062</u> | <u>1,135</u> | <u>1,327</u> | <u>1,827</u> | <u>2,455</u> | <u>2,862</u> |
| <u>1060 - 1079</u> | <u>1,094</u> | <u>1,175</u> | <u>1,366</u> | <u>1,882</u> | <u>2,532</u> | <u>2,947</u> |
| <u>1080 - 1099</u> | <u>1,127</u> | <u>1,208</u> | <u>1,406</u> | <u>1,936</u> | <u>2,606</u> | <u>3,036</u> |
| <u>1100 - 1119</u> | <u>1,159</u> | <u>1,245</u> | <u>1,449</u> | <u>1,996</u> | <u>2,684</u> | <u>3,127</u> |
| <u>1120 - 1139</u> | <u>1,195</u> | <u>1,284</u> | <u>1,493</u> | <u>2,054</u> | <u>2,765</u> | <u>3,220</u> |
| <u>1140 - 1159</u> | <u>1,229</u> | <u>1,320</u> | <u>1,536</u> | <u>2,116</u> | <u>2,849</u> | <u>3,318</u> |
| <u>1160 - 1179</u> | <u>1,266</u> | <u>1,358</u> | <u>1,584</u> | <u>2,180</u> | <u>2,933</u> | <u>3,416</u> |

| <u>LOA</u> (Length Overall) | <u>ZONE</u> I Intra Harbor | <u>ZONE</u> II 0-30 Miles | <u>ZONE</u> III 31-50 Miles | <u>ZONE</u> IV 51-75 Miles | <u>ZONE</u> V 76-100 Miles | <u>ZONE</u> VI 101 Miles & Over |
|--------------------------------|----------------------------------|---------------------------------|-----------------------------------|----------------------------------|----------------------------------|--|
| <u>1180 - 1199</u> | <u>1,305</u> | <u>1,400</u> | <u>1,630</u> | <u>2,245</u> | <u>3,022</u> | <u>3,519</u> |
| <u>1200 - 1219</u> | <u>1,345</u> | <u>1,442</u> | <u>1,678</u> | <u>2,313</u> | <u>3,113</u> | <u>3,623</u> |
| <u>1220 - 1239</u> | <u>1,383</u> | <u>1,485</u> | <u>1,727</u> | <u>2,382</u> | <u>3,204</u> | <u>3,732</u> |
| <u>1240 - 1259</u> | <u>1,424</u> | <u>1,529</u> | <u>1,778</u> | <u>2,452</u> | <u>3,301</u> | <u>3,843</u> |
| <u>1260 - 1279</u> | <u>1,466</u> | <u>1,574</u> | <u>1,832</u> | <u>2,526</u> | <u>3,401</u> | <u>3,958</u> |
| <u>1280 - 1299</u> | <u>1,510</u> | <u>1,622</u> | <u>1,888</u> | <u>2,602</u> | <u>3,500</u> | <u>4,078</u> |
| <u>1300 - 1319</u> | <u>1,556</u> | <u>1,668</u> | <u>1,943</u> | <u>2,679</u> | <u>3,606</u> | <u>4,198</u> |
| <u>1320 - 1339</u> | <u>1,603</u> | <u>1,719</u> | <u>2,003</u> | <u>2,759</u> | <u>3,713</u> | <u>4,325</u> |
| <u>1340 - 1359</u> | <u>1,649</u> | <u>1,771</u> | <u>2,062</u> | <u>2,841</u> | <u>3,824</u> | <u>4,455</u> |
| <u>1360 - 1379</u> | <u>1,699</u> | <u>1,822</u> | <u>2,123</u> | <u>2,928</u> | <u>3,937</u> | <u>4,586</u> |
| <u>1380 - 1399</u> | <u>1,749</u> | <u>1,877</u> | <u>2,188</u> | <u>3,014</u> | <u>4,056</u> | <u>4,726</u> |
| <u>1400 - 1419</u> | <u>1,802</u> | <u>1,934</u> | <u>2,251</u> | <u>3,103</u> | <u>4,177</u> | <u>4,867</u> |
| <u>1420 - 1439</u> | <u>1,855</u> | <u>1,992</u> | <u>2,319</u> | <u>3,197</u> | <u>4,304</u> | <u>5,013</u> |
| <u>1440 - 1459</u> | <u>1,913</u> | <u>2,052</u> | <u>2,390</u> | <u>3,292</u> | <u>4,432</u> | <u>5,162</u> |
| <u>1460 - 1479</u> | <u>1,966</u> | <u>2,112</u> | <u>2,460</u> | <u>3,390</u> | <u>4,565</u> | <u>5,315</u> |
| <u>1480 - 1499</u> | <u>2,026</u> | <u>2,175</u> | <u>2,533</u> | <u>3,491</u> | <u>4,700</u> | <u>5,475</u> |
| <u>1500 & Over</u> | <u>2,087</u> | <u>2,241</u> | <u>2,608</u> | <u>3,598</u> | <u>4,840</u> | <u>5,638</u> |

WSR 08-12-019

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed May 28, 2008, 1:07 p.m., effective July 1, 2008]

Effective Date of Rule: July 1, 2008.

Purpose: The purpose of the rule change is to align the water use efficiency goal setting requirement with RCW 70.119A.180 (4)(c) by requiring that water use efficiency goals are set for consumers.

Citation of Existing Rules Affected by this Order: Amending WAC 246-290-830.

Statutory Authority for Adoption: RCW 70.119A.180.

Adopted under notice filed as WSR 08-08-090 on April 1, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 28, 2008.

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 07-02-025B, filed 12/22/06, effective 1/22/07)

WAC 246-290-830 Water use efficiency goal setting.

(1) The elected governing board or governing body of the public water system shall establish water use efficiency goals within one year of the effective date of this rule for systems serving one thousand or more total connections, and within two years of the effective date of this rule for systems serving less than one thousand total connections.

(2) Water use efficiency goals must be designed to enhance the efficient use of water by the water system's ((and/or its)) consumers.

(3) If a municipal water supplier determines that further reductions over current consumption levels are not reasonably achievable, the municipal water supplier shall provide justification that considers historic water use efficiency performance and investment and any other factors that support that determination. Justification must be provided in water use efficiency programs developed under WAC 246-290-810 and in water use efficiency performance reports developed under WAC 246-290-840.

(4) Municipal water suppliers must provide documentation when requested by the department and in water use efficiency programs developed under WAC 246-290-810 that demonstrates the following goal setting requirements have been met:

(a) Goals shall be set in a public forum that provides opportunity for consumers and the public to participate and comment on the water use efficiency goals;

(b) Public notice must occur at least two weeks prior to the public forum. Public notice must include the purpose, date, time, and place of the forum, and where materials supporting the rationale for the proposed goals can be reviewed;

(c) The elected governing board or governing body of the public water system shall review and consider all comments received;

(d) The following must be made available to the public for the purpose of fully documenting the basis for each goal:

(i) The information listed under WAC 246-290-810(4);

(ii) Annual water use efficiency performance reports prepared under WAC 246-290-840;

(iii) Water supply characteristics description in accordance with WAC 246-290-100 (4)(f)(iii)(B) or source description in accordance with WAC 246-290-105 (4)(f); and

(iv) A summary of the comments received and how they were considered.

(5) Existing public processes may be used if all requirements listed under subsection (4) of this section are met.

(6) Water use efficiency goals must include:

(a) Consideration of the system's forecasted demand and water supply characteristics;

(b) Measurable outcomes in terms of reduced or maintained water production or usage. Outcomes may be expressed on a per capita, per connection, total system, or other basis as deemed appropriate by the municipal water supplier;

(c) A schedule for achieving the water use efficiency goals; and

(d) Implementation schedule for each water use efficiency measure selected under WAC 246-290-810(4).

(7) The elected governing board or governing body of the public water system shall evaluate and reestablish water use efficiency goals following the process identified in subsection (4) of this section at least every six years and as part of a water system plan approval under WAC 246-290-100 or small water system management program approval under WAC 246-290-105.

(8) Water use efficiency goals may be changed at any time in accordance with subsection (4) of this section. Changes to goals must be identified in the next performance report.

(9) Water use efficiency programs must be modified if any water use efficiency goal is not met. Program modifications must be designed to achieve the system's water use efficiency goals.

Purpose: The department is amending chapter 388-106 WAC, Long-term care services. The medicare/medicaid integration project (MMIP) that has been available to dual eligible clients living in King or Pierce County will be phased out during 2008. This rule making amends and repeals sections in chapter 388-106 WAC to remove references to MMIP.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-106-0720, 388-106-0725, 388-106-0730, 388-106-0735 and 388-106-0740; and amending WAC 388-106-0015 and 388-106-0070.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.520.

Adopted under notice filed as WSR 08-08-114 on April 2, 2008.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 5.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 5.

Date Adopted: May 22, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-0015 What long-term care services does the department provide? The department provides long-term care services through programs that are designed to help you remain in the community. These programs offer an alternative to nursing home care (which is described in WAC 388-106-0350 through 388-106-0360). You may receive services from any of the following:

(1) **Medicaid personal care (MPC)** is a Medicaid state plan program authorized under RCW 74.09.520. Clients eligible for this program may receive personal care in their own home or in a residential facility.

(2) **Community options program entry system (COPES)** is a Medicaid waiver program authorized under RCW 74.39A.030. Clients eligible for this program may receive personal care in their own home or in a residential facility.

(3) **Medically needy residential waiver (MNRW)** is a Medicaid waiver program authorized under RCW 74.39.041. Clients eligible for this program may receive personal care in a residential facility.

(4) **Medically needy in-home waiver (MNIW)** is a Medicaid waiver program authorized under RCW 74.09.700.

WSR 08-12-023

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed May 29, 2008, 8:35 a.m., effective July 1, 2008]

Effective Date of Rule: July 1, 2008.

Clients eligible for this program may receive personal care in their own home.

(5) **Chore** is a state-only funded program authorized under RCW 74.39A.110. Grandfathered clients may receive assistance with personal care in their own home.

(6) **Volunteer chore** is a state-funded program that provides volunteer assistance with household tasks to eligible clients.

(7) **Program of all-inclusive care for the elderly (PACE)** is a Medicaid/Medicare managed care program authorized under 42 CFR 460.2. Clients eligible for this program may receive personal care and medical services in their own home, in residential facilities, and in adult day health centers.

(8) **Adult day health** is a supervised daytime program providing skilled nursing and rehabilitative therapy services in addition to core services outlined in WAC 388-106-0800.

(9) **Adult day care** is a supervised daytime program providing core services, as defined under WAC 388-106-0800.

(10) **GAU-funded residential care** is a state-funded program authorized under WAC 388-400-0025. Clients eligible for this program may receive personal care services in an adult family home or an adult residential care facility.

(11) **Residential care discharge allowance** is a service that helps eligible clients to establish or resume living in their own home.

(12) **Private duty nursing** is a Medicaid service that provides an alternative to institutionalization in a hospital or nursing facility setting. Clients eligible for this program may receive at least four continuous hours of skilled nursing care on a day to day basis in their own home.

(13) **Senior Citizens Services Act (SCSA)** is a program authorized under chapter 74.38 RCW. Clients eligible for this program may receive community-based services as defined in RCW 74.38.040.

(14) **Respite program** is a program authorized under RCW 74.41.040 and WAC 388-106-1200. This program provides relief care for unpaid family or other caregivers of adults with a functional disability.

(15) **Programs for persons with developmental disabilities** are discussed in chapter 388-823 through 388-853 WAC.

(16) **Nursing facility.**

(17) ~~((Medicare/Medicaid integration project (MMIP) is a DSHS prepaid managed care program, authorized under 42 CFR Part 438, that integrates medical and long term care services for clients who are sixty-five years of age or older and eligible for Medicare (Parts A and B) and Medicaid.~~

(18)) **New Freedom consumer directed services (NFCDS)** is a Medicaid waiver program authorized under RCW 74.39A.030.

AMENDATORY SECTION (Amending WSR 07-24-026, filed 11/28/07, effective 1/1/08)

WAC 388-106-0070 Will I be assessed in CARE? You will be assessed in CARE if you are applying for or receiving DDD services, COPES, MNIW, MNRW, MPC, chore, respite, adult day health, GAU-funded residential care,

PACE, private duty nursing, New Freedom or long-term care services within the ~~((MMIP or))~~ WMIP program(s).

If you are under the age of eighteen and within thirty calendar days of your next birthday, CARE determines your assessment age to be that of your next birthday.

REPEALER

The following sections of the Washington Administrative Code are repealed:

| | |
|------------------|---|
| WAC 388-106-0720 | What services may I receive under MMIP? |
| WAC 388-106-0725 | Am I eligible for MMIP services? |
| WAC 388-106-0730 | How do I pay for MMIP services? |
| WAC 388-106-0735 | How do I disenroll from MMIP? |
| WAC 388-106-0740 | What is the fair hearing process for enrollee appeals of managed care organization actions? |

WSR 08-12-025

PERMANENT RULES

OFFICE OF

ADMINISTRATIVE HEARINGS

[Filed May 29, 2008, 12:09 p.m., effective June 29, 2008]

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

Purpose: The purpose of this rule change is to notify the public that the office of administrative hearings (OAH) relocated our Everett field office to Seattle and we have changed the title for the administrative law judge who manages each field office from senior administrative law judge to assistant deputy chief administrative law judge.

Citation of Existing Rules Affected by this Order: Amending WAC 10-04-020.

Statutory Authority for Adoption: Chapter 34.12 RCW.

Adopted under notice filed as WSR 08-07-007 on March 6, 2008.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 29, 2008.

Jane L. Habegger
Senior Administrative
Law Judge

AMENDATORY SECTION (Amending WSR 06-08-009, filed 3/23/06, effective 4/23/06)

WAC 10-04-020 Function—Organization—Offices.

The office of administrative hearings conducts impartial administrative hearings for state agencies and local governments pursuant to chapter 34.12 RCW. The office is under the direction of the chief administrative law judge.

Administrative law judges preside over hearings in adjudicative proceedings and issue initial or final orders, including findings of fact and conclusions of law.

The administrative office is located at 2420 Bristol Ct. SW, P.O. Box 42488, Olympia, Washington, 98504-2488. The office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday except legal holidays. Administrative law judges are assigned to field offices located in (~~Everett~~) Olympia, Seattle, Spokane, Vancouver, and Yakima. Each office is headed by an (~~senior~~) assistant deputy chief administrative law judge.

All written communications by parties pertaining to a particular case shall be filed with the field office, if any, assigned to the case, and otherwise with the chief administrative law judge or designee at the administrative office.

WSR 08-12-029

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 29, 2008, 3:42 p.m., effective July 1, 2008]

Effective Date of Rule: July 1, 2008.

Purpose: The DSHS division of child support (DCS) is adopting new sections and/or amendments in chapter 388-14A WAC to implement state legislation which implements the Federal Deficit Reduction Act of 2005, and to clarify DCS procedure and policy around the establishment and enforcement of child support obligations. See Reviser's note below.

Citation of Existing Rules Affected by this Order: See Reviser's note below.

Statutory Authority for Adoption: Sections 1, 2, 3, 4, 5, 7, 8, and 9, chapter 143, Laws of 2007.

Adopted under notice filed as WSR 08-07-045 on March 14, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 5, Amended 34, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 34, Repealed 0.

Date Adopted: May 28, 2008.

Stephanie E. Schiller

Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 08-14 issue of the Register.

WSR 08-12-030

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed May 29, 2008, 3:44 p.m., effective July 1, 2008]

Effective Date of Rule: July 1, 2008.

Purpose: Chapter 359, Laws of 2007 (2SHB 1088) requires the department to improve access to mental health services for children who do not meet regional support network access to care standards. Specifically, the department is revising its rules effective July 1, 2008, to allow children up to twenty hours of outpatient therapy per year, including family therapy visits. In addition, licensed mental health professionals will be allowed to provide the therapy. Currently, children are allowed up to twelve hours of outpatient therapy per year provided by a psychiatrist.

Citation of Existing Rules Affected by this Order: Amending WAC 388-502-0010, 388-531-0100, 388-531-0250, and 388-531-1400.

Statutory Authority for Adoption: RCW 74.09.521.

Adopted under notice filed as WSR 08-08-124 on April 2, 2008.

Changes Other than Editing from Proposed to Adopted Version: (*Changes are indicated in bold italics*).

WAC 388-502-0010:

(3)(a)(xxviii): Social workers, only as provided in WAC 388-531-1400 and 388-531-1600.

(5)(h): Social workers, except as provided in WAC 388-531-1400 and 388-531-1600.

WAC 388-531-0250:

(1): The following enrolled providers are eligible to provide and bill for physician-related ~~medical~~ healthcare services which they provide...

(1)(i): Licensed social workers, only as provided in WAC 388-531-1400 and 388-531-1600.

WAC 388-531-1400:

Title: Psychiatric physician-related services *and other professional mental health services*.

First sentence: *The mental health services covered in the medical benefits described in this section are separate from the mental health services covered by the mental health managed care system administered under the authority of the mental health division pursuant to chapter 388-865 WAC.*

(3) ~~((MAA reimburses psychiatrists for either hospital care or psychotherapy, but not for both on the same day))~~ *With the exception of medication management, the department covers, with limitations, other mental health services described in this section with the limitation of one service per client, per day regardless of location or provider type.*

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: May 27, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-14-106, filed 6/30/03, effective 7/31/03)

WAC 388-502-0010 Payment—Eligible providers defined. The department ~~((reimburses))~~ *pays* enrolled providers for covered ~~((medical))~~ *healthcare* services, equipment and supplies they provide to eligible clients.

(1) To be eligible for enrollment, a provider must:

(a) Be licensed, certified, accredited, or registered according to Washington state laws and rules; and

(b) Meet the conditions in this chapter and chapters regulating the specific type of provider, program, and/or service.

(2) To enroll, an eligible provider must sign a core provider agreement ~~((or a contract))~~ with the department and receive a unique provider number; a provider may also sign a contract to enroll. (Note: Section 13 of the core provider agreement, DSHS 09-048 (REV. 06/2002), is hereby rescinded. The department and each provider signing a core provider agreement will hold each other harmless from a legal action based on the negligent actions or omissions of either party under the terms of the agreement.)

(3) Eligible providers listed in this subsection may request enrollment. Out-of-state providers listed in this subsection are subject to conditions in ~~((WAC 388-502-0120))~~ chapter 388-502 WAC.

(a) Professionals:

(i) Advanced registered nurse practitioners;

(ii) Anesthesiologists;

(iii) Audiologists;

(iv) Chiropractors;

(v) Dentists;

(vi) Dental hygienists;

(vii) Denturists;

(viii) Dietitians or nutritionists;

(ix) Marriage and family therapists, only as provided in WAC 388-531-1400;

~~((x))~~ (x) Maternity case managers;

~~((xi))~~ (xi) Mental health counselors, only as provided in WAC 388-531-1400;

~~((xii))~~ (xii) Midwives;

~~((xiii))~~ (xiii) Occupational therapists;

~~((xiv))~~ (xiv) Ophthalmologists;

~~((xv))~~ (xv) Opticians;

~~((xvi))~~ (xvi) Optometrists;

~~((xvii))~~ (xvii) Orthodontists;

~~((xviii))~~ (xviii) Osteopathic physicians;

~~((xix))~~ (xix) Podiatric physicians;

~~((xx))~~ (xx) Pharmacists;

~~((xxi))~~ (xxi) Physicians;

~~((xxii))~~ (xxii) Physical therapists;

~~((xxiii))~~ (xxiii) Psychiatrists;

~~((xxiv))~~ (xxiv) Psychologists;

~~((xxv))~~ (xxv) Registered nurse delegators;

~~((xxvi))~~ (xxvi) Registered nurse first assistants;

~~((xxvii))~~ (xxvii) Respiratory therapists;

~~((xxviii))~~ (xxviii) Social workers, only as provided in WAC 388-531-1400 and 388-531-1600;

~~((xxix))~~ (xxix) Speech/language pathologists;

~~((xxx))~~ (xxx) Radiologists; and

~~((xxxi))~~ (xxxi) Radiology technicians (technical only);

(b) Agencies, centers and facilities:

(i) Adult day health centers;

(ii) Ambulance services (ground and air);

(iii) Ambulatory surgery centers (Medicare-certified);

(iv) Birthing centers (licensed by the department of health);

(v) Blood banks;

(vi) Chemical dependency treatment facilities certified by the department of social and health services (DSHS), division of alcohol and substance abuse (DASA), and contracted through either:

(A) A county under chapter 388-810 WAC; or

(B) DASA to provide chemical dependency treatment services;

(vii) Centers for the detoxification of acute alcohol or other drug intoxication conditions (certified by DASA);

(viii) Community AIDS services alternative agencies;

(ix) Community mental health centers;

(x) Early and periodic screening, diagnosis, and treatment (EPSDT) clinics;

(xi) Family planning clinics;

(xii) Federally qualified health ~~((care))~~ centers (FOHC) (designated by the ~~((Federal Health Care Financing Administration))~~ Centers for Medicare and Medicaid);

(xiii) Genetic counseling agencies;

- (xiv) Health departments;
 - (xv) HIV/AIDS case management;
 - (xvi) Home health agencies;
 - (xvii) Hospice agencies;
 - (xviii) Hospitals;
 - (xix) Indian Health Service;
 - (xx) Tribal or urban Indian clinics;
 - (xxi) Inpatient psychiatric facilities;
 - (xxii) Intermediate care facilities for the mentally retarded (ICF-MR);
 - (xxiii) Kidney centers;
 - (xxiv) Laboratories (CLIA certified);
 - (xxv) Maternity support services agencies;
 - (xxvi) Neuromuscular and neurodevelopmental centers;
 - (xxvii) Nursing facilities (approved by DSHS Aging and ~~(Adult)~~ Disability Services);
 - (xxviii) Pharmacies;
 - (xxix) Private duty nursing agencies;
 - (xxx) Rural health clinics (Medicare-certified);
 - (xxxi) Tribal mental health services (contracted through the DSHS mental health division); and
 - (xxxii) Washington state school districts and educational service districts.
- (c) Suppliers of:
- (i) Durable and nondurable medical equipment and supplies;
 - (ii) Infusion therapy equipment and supplies;
 - (iii) Prosthetics/orthotics;
 - (iv) Hearing aids; and
 - (v) Oxygen equipment and supplies;
- (d) Contractors of:
- (i) Transportation brokers;
 - (ii) Interpreter services agencies; and
 - (iii) Eyeglass and contact lens providers.
- (4) Nothing in this chapter precludes the department from entering into other forms of written agreements to provide services to eligible clients.
- (5) The department does not enroll licensed or unlicensed practitioners who are not specifically addressed in subsection (3) of this section (~~(-including,)). Ineligible providers include but are not limited to:~~
- (a) Acupuncturists;
 - (b) Counselors, except as provided in WAC 388-531-1400;
 - (c) Sanipractors;
 - (d) Naturopaths;
 - (e) Homeopaths;
 - (f) Herbalists;
 - (g) Massage therapists;
 - (h) Social workers, except as provided in WAC 388-531-1400 and 388-531-1600; or
 - (i) Christian Science practitioners or theological healers.

AMENDATORY SECTION (Amending WSR 06-24-036, filed 11/30/06, effective 1/1/07)

WAC 388-531-0100 Scope of coverage for physician-related services—General and administrative. (1) The department covers ~~((medical))~~ healthcare services, equipment, and supplies listed in this chapter, according to depart-

ment rules and subject to the limitations and requirements in this chapter, when they are:

(a) Within the scope of an eligible client's medical assistance program. Refer to WAC 388-501-0060 and 388-501-0065; and

(b) Medically necessary as defined in WAC 388-500-0005.

(2) The department evaluates a request for a service that is in a covered category under the provisions of WAC 388-501-0165.

(3) The department evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions as described in WAC 388-501-0169.

(4) The department covers the following physician-related services, subject to the conditions in subsections (1), (2), and (3) of this section:

- (a) Allergen immunotherapy services;
- (b) Anesthesia services;
- (c) Dialysis and end stage renal disease services (refer to chapter 388-540 WAC);

- (d) Emergency physician services;

- (e) ENT (ear, nose, and throat) related services;
- (f) Early and periodic screening, diagnosis, and treatment (EPSDT) services (refer to WAC 388-534-0100);

- (g) Family planning services (refer to chapter 388-532 WAC);

- (h) Hospital inpatient services (refer to chapter 388-550 WAC);

- (i) Maternity care, delivery, and newborn care services (refer to chapter 388-533 WAC);

- (j) Office visits;
- (k) Vision-related services, refer to chapter 388-544 WAC;

- (l) Osteopathic treatment services;
- (m) Pathology and laboratory services;

- (n) Psychiatry and other rehabilitation services (refer to chapter 388-550 WAC);

- (o) Podiatry services;
- (p) Primary care services;

- (q) Psychiatric services, provided by a psychiatrist;
- (r) Psychotherapy services for children as provided in WAC 388-531-1400;

- (s) Pulmonary and respiratory services;

- ~~((s))~~ (t) Radiology services;

- ~~((t))~~ (u) Surgical services;

- ~~((u))~~ (v) Cosmetic, reconstructive, or plastic surgery, and related services and supplies to correct physiological defects from birth, illness, or physical trauma, or for mastectomy reconstruction for post cancer treatment; and

- ~~((v))~~ (w) Other outpatient physician services.

(5) The department covers physical examinations for medical assistance clients only when the physical examination is one or more of the following:

- (a) A screening exam covered by the EPSDT program (see WAC 388-534-0100);

- (b) An annual exam for clients of the division of developmental disabilities; or

- (c) A screening pap smear, mammogram, or prostate exam.

(6) By providing covered services to a client eligible for a medical assistance program, a provider who has signed an agreement with the department accepts the department's rules and fees as outlined in the agreement, which includes federal and state law and regulations, billing instructions, and department issuances.

AMENDATORY SECTION (Amending WSR 05-12-022, filed 5/20/05, effective 6/20/05)

WAC 388-531-0250 Who can provide and bill for physician-related services. (1) The following enrolled providers are eligible to provide and bill for physician-related ~~((medical))~~ healthcare services which they provide to eligible clients:

- (a) Advanced registered nurse practitioners (ARNP);
- (b) Federally qualified health centers (FQHCs);
- (c) Health departments;
- (d) Hospitals currently licensed by the department of health;
- (e) Independent (outside) laboratories **CLIA** certified to perform tests. See WAC 388-531-0800;
- (f) Licensed marriage and family therapists, only as provided in WAC 388-531-1400;
- (g) Licensed mental health counselors, only as provided in WAC 388-531-1400;
- (h) Licensed radiology facilities;
- ~~((g))~~ (i) Licensed social workers, only as provided in WAC 388-531-1400 and 388-531-1600;
- (j) Medicare-certified ambulatory surgery centers;
- ~~((h))~~ (k) Medicare-certified rural health clinics;
- ~~((i))~~ (l) Providers who have a signed agreement with ~~((MAA))~~ the department to provide screening services to eligible persons in the EPSDT program;
- ~~((j))~~ (m) Registered nurse first assistants (RNFA); and
- ~~((k))~~ (n) Persons currently licensed by the state of Washington department of health to practice any of the following:

- (i) Dentistry (refer to chapter 388-535 WAC);
- (ii) Medicine and osteopathy;
- (iii) Nursing;
- (iv) Optometry; or
- (v) Podiatry.

(2) ~~((MAA))~~ The department does not ~~((reimburse))~~ pay for services performed by any of the following practitioners:

- (a) Acupuncturists;
- (b) Christian Science practitioners or theological healers;
- (c) Counselors, except as provided in WAC 388-531-1400;
- (d) Herbalists;
- (e) Homeopaths;
- (f) Massage therapists as licensed by the Washington state department of health;
- (g) Naturopaths;
- (h) Sanipractors;
- (i) Social workers, except those who have a master's degree in social work (MSW), ~~((except those))~~ and:
 - (i) Are employed by an FQHC ~~((or who));~~
 - (ii) Who have prior authorization to evaluate a client for bariatric surgery; or

(iii) As provided in WAC 388-531-1400.

(j) Any other licensed or unlicensed practitioners not otherwise specifically provided for in WAC 388-502-0010; or

(k) Any other licensed practitioners providing services which the practitioner is not:

- (i) Licensed to provide; and
- (ii) Trained to provide.

(3) ~~((MAA reimburses))~~ The department pays practitioners listed in subsection (2) of this section for physician-related services if those services are mandated by, and provided to, clients who are eligible for one of the following:

- (a) The EPSDT program;
- (b) A Medicaid program for qualified Medicare beneficiaries (QMB); or
- (c) A waiver program.

AMENDATORY SECTION (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

WAC 388-531-1400 Psychiatric physician-related services and other professional mental health services. (1) ~~((MAA limits psychotherapy to one hour per day, per client, up to a total of twelve hours per calendar year. This includes family or group psychotherapy. Psychotherapy must be provided by a psychiatrist in the office, in the client's home, or in a nursing facility))~~ The mental health services covered in the medical benefits described in this section are separate from the mental health services covered by the mental health managed care system administered under the authority of the mental health division pursuant to chapter 388-865 WAC. The department covers outpatient mental health services with the following limitations:

(a) For clients eighteen years of age and younger:

(i) The department pays for only one hour per day, per client, up to a total of twenty hours per calendar year, including the psychiatric diagnostic evaluation and family therapy visits that are medically necessary to the client's treatment;

(ii) The department limits medication management services to one per day, but this service may be billed by psychiatrists and psychiatric advanced registered nurse practitioners (ARNP) in conjunction with the diagnostic interview examination, or when a psychiatrist or psychiatric ARNP performs medication management services on the same day as a different licensed mental health practitioner renders another billable mental health service; and

(iii) The mental health services must be provided in an outpatient setting by a psychiatrist, psychologist, psychiatric ARNP, social worker, marriage and family therapist, or mental health counselor who must:

(A) Be licensed, in good standing and without restriction, by the department of health under their appropriate licensure; and

(B) Have a minimum of two years experience in the diagnosis and treatment of clients eighteen years of age and younger and their families, including a minimum one year under the supervision of a mental health professional trained in child and family mental health. A licensed psychiatrist may provide these services and bill the department without meeting this requirement.

(b) For clients nineteen years of age and older:

(i) The department pays for only one hour per day, per client, up to a total of twelve hours per calendar year, including family or group therapy visits;

(ii) The department limits medication management services to one per day, but this service may be billed by psychiatrists and psychiatric ARNPs in conjunction with the diagnostic interview examination, or when a psychiatrist or psychiatric ARNP performs medication management services on the same day as a different licensed mental health practitioner renders another billable mental health service; and

(iii) The mental health services must be provided by a psychiatrist in an outpatient setting.

(2) ~~((MAA reimburses only one hospital call for direct psychiatric client care, per client, per day. Psychiatrists must bill the total time spent on direct psychiatric client care during each visit. Making rounds is considered direct client care and includes any one of the following))~~ The department covers inpatient mental health services with the following limitations:

(a) ~~((Brief (up to one hour), individual psychotherapy))~~ Must be provided by a psychiatrist;

(b) ~~((Family/group therapy))~~ Only the total time spent on direct psychiatric client care during each visit; and

(c) ~~((Electroconvulsive therapy; or~~

(d) ~~Pharmacologic management))~~ One hospital call per day for direct psychiatric client care, including making rounds. Making rounds is considered direct client care and includes any one of the following:

(i) Individual psychotherapy up to one hour;

(ii) Family/group therapy; or

(iii) Electroconvulsive therapy.

(3) ~~((MAA reimburses psychiatrists for either hospital care or psychotherapy, but not for both on the same day))~~ With the exception of medication management, the department covers other mental health services described in this section with the limitation of one per client, per day regardless of location or provider type.

(4) ~~((MAA reimburses))~~ The department pays psychiatrists ~~((for))~~ when the client receives a medical physical examination in the hospital in addition to a psychiatric diagnostic or evaluation interview examination.

(5) ~~((MAA reimburses only one))~~ The department covers psychiatric diagnostic interview ~~((examination in a))~~ evaluations at the limit of one per provider, per calendar year unless a significant change in the client's circumstances renders an additional evaluation medically necessary and is authorized by the department.

(6) ~~((MAA requires psychiatrists to use hospital E&M codes when billing for daily rounds.~~

(7) ~~MAA))~~ The department does not cover ~~((for))~~ psychiatric sleep therapy.

~~((8) Medication adjustment is the only psychiatric service for which MAA reimburses psychiatric ARNPs))~~ (7) The department covers electroconvulsive therapy and narco-synthesis only when performed by a psychiatrist.

~~((9) MAA reimburses for one))~~ (8) The department pays psychiatric ARNPs only for mental health medication management and diagnostic interview evaluations provided to clients nineteen years of age and older.

(9) The department covers interactive ~~((or insight oriented call)),~~ face-to-face visits at the limit of one per client, per day, in an ~~((office or))~~ outpatient setting. ~~((Individual psychotherapy, interactive services))~~ Interactive, face-to-face visits may be billed only for clients age twenty and younger.

(10) The client or licensed healthcare provider may request a limitation extension only when the client exceeds the total hour limit described in subsection (1) of this section, and for no other limitation of service in this section. The department will evaluate these requests in accordance with WAC 388-501-0169.

(11) DSHS providers must comply with chapter ~~((s 275-55 and 275-57))~~ 388-865 WAC for hospital inpatient psychiatric admissions, and must follow rules adopted by the ~~((division of))~~ mental health division or the appropriate regional support network (RSN). ~~((MAA does not reimburse for those psychiatric services that are eligible for reimbursement under those agencies.))~~

(12) Accepting payment under more than one contract or agreement with the department for the same service for the same client constitutes duplication of payment. If a client is provided services under multiple contracts or agreements, each provider must maintain documentation identifying the type of service provided and the contract or agreement under which it is provided to ensure it is not a duplication of service.

WSR 08-12-031

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 29, 2008, 4:00 p.m., effective July 1, 2008]

Effective Date of Rule: July 1, 2008.

Purpose: The department is amending WAC 388-450-0175 Does the department offer an income deduction as an incentive for general assistance—Unemployable (GA-U) clients to work?, these rules are being amended to clarify the income deductions only apply to general assistance cash grants.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0175.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and Title 45 C.F.R., Part 261.2 as published in Federal Register on June 29, 2006.

Adopted under notice filed as WSR 08-09-137 on April 23, 2008.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 29, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-07-078, filed 3/13/06, effective 5/1/06)

WAC 388-450-0175 Does the department offer ~~((an))~~ income deduction for the general assistance program as an incentive for ~~((GA-U))~~ clients to work? The department gives special deductions to people who receive income from work while receiving general assistance ~~((Unemployable (GA-U)))~~. The deductions apply to general assistance cash benefits only. We allow the following deductions ~~((before using your earnings to))~~ when we determine ~~((your eligibility and monthly))~~ the amount of your benefits:

(1) We subtract eighty-five dollars plus one half of the remainder of your monthly gross earned income as an incentive to employment.

(2) We also subtract an amount equal to twenty percent of your gross earned income to allow for work expenses.

WSR 08-12-035

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed May 30, 2008, 9:23 a.m., effective June 30, 2008]

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

Purpose: Effective July 1, 2008, RCW 82.32.730 and 82.14.490 require sellers collecting local retail sales tax in Washington to implement new local retail sales tax sourcing rules. This rule clarifies the local sourcing rules applicable to the retail sales of tangible personal property, retail services, extended warranties, and leases of tangible personal property by amending WAC 458-20-145.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-145.

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

Adopted under notice filed as WSR 08-06-094 on March 5, 2008.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 458-20-145 **(1)(a)(i)**, edits were made to the two sentences as follows:

- The "Quarterly Local Sales & Use Tax Flyer" is edited to read:
- "Local Sales and Use Tax Flyer." This edit will enable taxpayers reading Rule 145 to more easily find the department's "Local Sales & Use Tax Flyer" located on the department's web site.

- The word "all" is replaced with **"select"** in the sentence that reads: "This publication is updated every quarter and is mailed to ~~all~~ **select** taxpayers reporting on paper returns." This edit clarifies that the "Local Sales & Use Tax Flyer" is not mailed to all taxpayers, consistent with current department practice.

2. WAC 458-20-145 **(2)(a)(ii)(B)(1)**, the word **"sale of"** is inserted into the following sentence that reads: "The painting firm must source the **sale of** painting services to Brett's Tacoma home location." This edit clarifies that the new sourcing rules are sourcing the "sale" of services, consistent with the language of RCW 82.32.730.

3. WAC 458-20-145 **(2)(a)(ii)(D)(1)**, the verb "delivered" is replaced with the verb "received" in the sentence that reads: "The mattress was ~~delivered~~ **received** outside of Washington and is not subject to Washington state and local sales tax." This edit was made so that the language in Rule 145 as adopted is consistent with the language in RCW 82.32.730.

4. WAC 458-20-145 **(2)(a)(v)(B)**, the following edits were made to the sentence that reads: "If any of the sourcing Rules 1 through 4 do not apply, the seller must source sales of electronically delivered prewritten computer software to the address **location** from which the computer software was first ~~made~~ available for transmission by the seller. Locations that merely provide for the transfer of computer software, ~~and~~ are not ~~the~~ address **locations** from which ~~the seller made~~ the computer software is first available for transmission, ~~will not be used~~. These edits are intended to make the language more readable and to more precisely track the language of RCW 82.32.730 (1)(e).

5. WAC 458-20-145 **(2)(b)(v)(D)(1)**, the following changes were made in the sentence that reads: "The seller first made the prewritten software available for transmission ~~from a server housed~~ at its Tacoma location. The seller will source the sale to that Tacoma location from which the prewritten software was first **available for transmission**. ~~transmitted~~. This result will not change if the software is routed from ~~the~~ a Tacoma server through a second server (either operated by the seller or some third party) located outside of the Tacoma location." These changes are intended to prevent confusion identified in public comment by making the language of Rule 145 as adopted more precisely track the statutory language of RCW 82.32.730 (1)(e).

6. WAC 458-20-145 **(2)(b)(v)(D)(2)**, the following changes were made in the sentence that reads: "Assume the facts in Example (1) directly above, except that Rebecca's order is submitted to the Tacoma location and the ~~transmission of the~~ prewritten software **originates is first available for transmission** from a Bellevue location. ~~The seller first made available for transmission the prewritten software from a server housed at its Bellevue location.~~" These changes are intended to prevent confusion raised in public comment by making the language [of] Rule 145 as adopted more precisely track the statutory language of RCW 82.32.730 (1)(e).

7. WAC 458-20-145 **(2)(c)**, the phrase **"as a retail sale"** will be inserted at the end of the following sentences:

- WAC 458-20-145 **(2)(c)(i)**, "If you are leasing transportation equipment, you must source the lease pay-

ments attributable to that transportation equipment under sourcing Rules 1 through 5 above **as a retail sale.**" This edit adds existing clarifying statutory language from RCW 82.32.730(4).

- WAC 458-20-145 **(2)(c)(ii)(B)**, "If the lease does not require recurring periodic payments, you must source the single lease payment under sourcing Rules 1 through 5 above **as a retail sale.**" This change adds existing clarifying statutory language from RCW 82.32.730 (3)(b).
- WAC 458-20-145 **(2)(c)(iii)(A)**, "If the lease requires recurring periodic payments, you must source the first periodic payment on that lease under sourcing Rules 1 through 5 **as a retail sale.**" This edit merely adds existing clarifying statutory language from RCW 82.32.730 (2)(a).
- WAC 458-20-145 **(2)(c)(iii)(B)**, "If the lease does not require recurring periodic payments, you must source the single payment under sourcing Rules 1 through 5 **as a retail sale.**" This edit merely adds existing clarifying statutory language from RCW 82.32.730 (2)(b).

8. WAC 458-20-145(4), the word **"is"** is replaced with **"may be"** in the sentence that reads: "Where a seller does not have an obligation to collect Washington sales tax, the tangible personal property or service sold by that person ~~is~~ **may be** subject to use tax under chapter 82.12 RCW *et seq.*" This edit clarifies that use tax is not applicable to all items taxable as retail sales.

9. Several edits were made to Rule 145 as adopted due to the amendment of RCW 82.32.730 by SB 6799, chapter 324, Laws of 2008. These changes are as follows:

- WAC 458-20-145(2), the bolded language was added to the sentence that reads: "Subsection (2)(b) of this section provides special sourcing rules related to **certain "florist sales"** and the sale of watercraft; mobile, modular, and manufactured homes; and motor vehicles, trailers, semi-trailers, and aircraft that do not qualify as transportation equipment.
- WAC 458-20-145 **(1)(b)(i)**, the letter **"c"** is replaced with **"d"** in the sentence that reads: "See RCW 82.32.730 (8)(d)(e)."
- WAC 458-20-145 **(1)(b)(viii)(D)**, the letter **"d"** is replaced with **"e"** in the sentence that reads: "RCW 82.32.730 (8)(e)(d)."
- WAC 458-20-145 **(2)(b)**, the bolded language was added to the sentence that reads: "Special sourcing rule: **Florist sales and sales** ~~Sales~~ of watercraft; modular, mobile, and manufactured homes; and motor vehicles, trailers, semi-trailers, and aircraft that do not qualify as transportation equipment. **If you are a "florist" making sales or you are making a retail sale of watercraft; modular, mobile, or manufactured homes; or motor vehicles, trailers, semi-trailers, and aircraft that do not qualify as transportation equipment (excluding leases and rentals), you must source the sale to the location at or from which delivery is made. For information concerning "florist sales," who qualifies as a**

"florist," and the related specific sourcing rules see RCW 82.32.730 (6)(d) and 82.32.730 (8)(c) as amended by SB 6799, chapter 324, Laws of 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: May 30, 2008.

Janis P. Bianchi
Assistant Director
Interpretations and
Technical Advice Division

AMENDATORY SECTION (Amending Order ET 83-15, filed 3/15/83)

WAC 458-20-145 Local sales and use tax. (~~RCW 82.14.030 authorizes counties and cities to levy local sales and use taxes, such local taxes to be collected along with the state tax. By RCW 82.14.045 cities and counties, after voter approval, are authorized to levy an additional tax to finance public transportation, which tax is also to be collected along with the state tax. (See WAC 458-20-237.)~~)

~~As used herein the term "local tax" shall include either or both the local taxes and transportation sales and/or use taxes. The rule and examples in this administrative rule apply equally to all locally imposed sales and use taxes.~~

~~The total tax is to be reported and paid to the state. The local tax portion will be rebated to local governments according to information which retailers show on tax returns. If a business is such that a local tax will be collected for more than one taxing jurisdiction, it is necessary to keep a record of retail sales taxable to each such county or city. Vendors are responsible for determining the appropriate tax rate for each locality in which sales are made and for collecting from their purchasers the correct amount of tax due upon each sale.~~

~~"Place of sale" for purposes of local sales tax:~~

~~**Rule I.** Retailers of goods and merchandise: The sale occurs at the retail outlet at which or from which delivery is made to the consumer.~~

~~**Rule II.** Retailers of labor and services (e.g., construction contractors, repairmen, painters, plumbers, laundries, earth movers, fumigators, house wreckers or movers, tow truck operators, hotels, motels, tourist courts, trailer camps, amusement and recreation businesses listed in WAC 458-20-183; abstract, title insurance, escrow, credit bureau, auto parking, and storage garage businesses): The retail sales occurs where the labor and services are primarily performed.~~

Rule III. Retailers leasing or renting tangible personal property. The sale occurs at the place of first use by the lessee or renter. For practical purposes the place of business of the lessor will be deemed the place of first use for ordinary, short term rentals. If the rental or lease calls for periodic rental payments, then the place of sale is the primary place of use by the lessee or renter for each period covered by each payment.

"Place of use" for purposes of the use tax:

Rule IV. Whenever the state use tax is due, the local use tax will also apply where the property is first used in a county or city levying the local tax.

The following illustrates the application of these rules in various situations:

Rule I.

(A) This rule applies to retail sales consisting solely of tangible personal property (i.e., goods or merchandise). If retail labor and services are also involved Rule II applies to the entire sale. Secondly, the total tax is determined by the place at which or from which delivery is made. For most retailers the location of his place of business governs the local tax application. He collects the tax if his place of business is in a jurisdiction levying the local tax, even though he may deliver the goods sold to his customer to a location in the state not levying the tax. On the other hand a merchant whose place of business is in a jurisdiction not levying the local tax collects only the state tax, irrespective of whether delivery is made into a jurisdiction levying the local tax.

To sum up this part of the rule: The origin of the goods determines the local tax and destination or fact of delivery elsewhere in the state are immaterial.

(B) Special applications of the rules for goods located outside the state:

(1) When the state business and occupation tax applies to a sale in which the goods are delivered into Washington from a point outside the state this means a local in-state facility, office, outlet, agent or other representative even though not formally characterized as a "salesman" of the seller participated in the transaction in some way, such as by taking the order, then the location of the local facility, etc., will determine the place of sale for purposes of the local sales tax. However, if the seller, his agent or representative maintains no local in-state facility, office, outlet or residence from which business in some manner is conducted, the local tax shall be determined by the location of the customer.

(2) If the state business and occupation tax does not apply because there was no in-state activity in connection with the sale (e.g., an order was sent by a Washington consumer directly to a seller's out-of-state branch) the state tax due is use tax and the destination address of the consumer determines the applicable local use tax.

Rule I examples:

(1) A resident of Everett purchases a sofa from a furniture dealer in Seattle. The dealer delivers the sofa to the customer's home in Everett. The Seattle local sales tax applies, being the place from which the goods were delivered.

(2) A resident of Olympia purchases a refrigerator from a merchant in Tekoa. If Tekoa has not levied the local sales tax, the merchant will collect only the state sales tax. Olym-

pia's use tax is not due even though the property will be used there. Reason: The law makes the local tax collectible at time of the taxable event for the state tax.

Rule II.

This rule applies to retail sales of labor or services and also applies to sales of tangible personal property when labor and services are rendered in conjunction therewith. The local tax is governed by the place where the labor and services are primarily performed.

(A) Retailers who primarily render their services at their place of business will collect the local sales tax if they are located in a jurisdiction which levies the tax. Examples of retailers normally falling in this class: Auto repair shops, hotels, motels, amusement or recreation businesses, title insurance, credit bureau, escrow businesses, auto parking, storage garages, laundries.

(B) Retailers primarily performing their services at the location of their customers will collect the local sales tax for the jurisdiction in which the customer is located. Examples of this class of retailers are: Construction contractors, painters, plumbers, carpet layers (retailers who install what they sell, as carpet layers often do, fall under Rule II place where work is done governs the local tax to be applied if the installation would normally call for an extra charge) earthmovers, house-wreckers.

Examples:

(1) A dealer sells a TV set, delivers it and puts it in working order in his customer's home. This falls under Rule I, not Rule II, because there is normally no extra charge for "installing" a TV set.

(2) A hardware store sells yard fencing at \$5.00 per running foot including installation. This falls under Rule II because fence installation normally would involve an extra charge.

(3) A home furnishings dealer sells carpeting at \$12.00 per yard and agrees to install it for \$2.00 per yard additional. The entire transaction falls under Rule II and the \$14.00 per yard will be subject to the local tax levied by the jurisdiction in which the customer resides. Rule I is limited to retail transactions consisting **solely** of sales of goods or merchandise.

(C) The primary place of performance for retailers whose services consist largely of moving or transporting is deemed to be the destination (place where the service is completed). Typical of this class are: Tow truck operators and house movers.

Examples:

(1) A towing service is called to pick up a stalled vehicle just outside the city of Reardan and deliver the vehicle to an automotive repair shop in Spokane. Spokane's local tax applies.

(2) A housemover is hired to move a home from inside the Olympia city limits to a location 4 miles out of town in Thurston County. The housemover will collect only the state tax if Thurston County, the destination, does not levy the local tax.

Rule III.

This covers rentals or leases and has two parts, and it is important to distinguish "periodic rentals" from other rentals to know which part of the rule applies:

Definition. A periodic rental (or lease) is one in which the lessee or renter has contracted to make regular rental payments at specified intervals. These are normally longer term rentals calling for a rental payment monthly on or before a certain date.

(A) The place of sale for the ordinary, nonperiodic rental is the place of first use (the place where the lessee normally takes possession). In the interest of uniformity and simplicity this will be presumed to be the place of business of the lessor.

(B) The place of sale for the periodic rental is the primary place of use during each period covered by each periodic payment.

(1) In the case of business lessees this will be presumed to be the place of business of the lessee. Where the lessee has several places of business, the place of primary use will be deemed to be the place to which assigned or regularly returned.

(2) In the case of rentals to private individuals the place of use will be presumed to be the residence of the lessee or renter.

Examples:

(1) Acme Rent-all Co., located in Walla Walla, rents small tools, garden equipment, scaffolding, and many other kinds of tangible personal property. It charges \$2.00 per day for rental of a rototiller. This is not a periodic rental because the lessee merely makes a deposit and pays the full balance of the rent due upon returning the equipment. The lessor will collect the Walla Walla tax on all such rentals, irrespective of where the lessee lives or where the property will be used.

(2) An automobile dealer in Tacoma leases an automobile to a Seattle resident. The agreement calls for \$50.00 per month rental, payable by the 10th of each month. This is a periodic rental, so the place of primary use by the lessee governs collection of the local tax. The Tacoma dealer will collect the Seattle local tax.

Rule IV.

This rule applies only to transactions which are not subject to sales tax under Rule I, and intends that the local use tax shall be payable at the time and place the state use tax is due.

Examples:

(1) A Spokane resident purchases an automobile from a private individual in Seattle. He transfers title at the King County auditor's office and makes payment of the state use tax. The King County auditor will collect Spokane's local use tax at the same time.

(2) A Sumner resident places an order with a catalog mail order outlet in Tacoma. The Tacoma local sales tax is due since the transaction falls under Rule I, not Rule IV.

(3) Same as example 2 except the Sumner resident sends a catalog mail order directly to the Portland warehouse rather than going through the Tacoma catalog store. The vendor will collect Sumner's local use tax along with the state use tax.

The above explanation is intended to cover only the most frequently encountered situations. For more intricate or complicated transactions, call the nearest district office of the

department of revenue for assistance.) (1) **Introduction.** Effective July 1, 2008, Washington implements new rules governing how local retail sales taxes are sourced within Washington. See RCW 82.32.730 and 82.14.490. These rules govern where the local retail sales tax attributable to the sale of tangible personal property, retail services, extended warranties, and the lease of tangible personal property is sourced.

"Source," "sourced," or "sourcing" refer to the location (as in a local taxing district, jurisdiction, or authority) where a sale or lease is deemed to occur and is subject to retail sales tax. The department assigns location codes to identify the specific taxing locations that receive the local taxes. These location codes are used on tax returns to accurately identify the correct taxing location and tax rate.

Sellers and their agents are responsible for determining the appropriate tax rate for all their retail sales taxable in Washington. Sellers and their agents are also responsible for collecting from their purchasers the correct amount of tax due upon each sale and remitting that tax to the department.

Throughout this section the department provides a number of examples that identify facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined separately after a review of all of the facts and circumstances.

This section is divided into four subsections. Subsection (1) contains this introduction, a description of department resources available to assist taxpayers in performing local sales tax sourcing, and certain key terms. Subsection (2) describes Washington's sourcing rules that become effective July 1, 2008. Subsection (3) provides information relating to the sourcing of telecommunication services. Finally, subsection (4) briefly explains Washington's use tax rule.

(a) What resources does the department offer to help sellers determine their local retail sales tax sourcing? The department offers a number of resources to assist taxpayers in sourcing retail sales. These resources include:

(i) **The "Local Sales & Use Tax Flyer."** This publication is updated every quarter and is mailed to select taxpayers reporting on paper returns. It is also available online on the department's web site at www.dor.wa.gov under "get a form or publication." It provides a listing of all local taxing jurisdictions, location codes, and their corresponding tax rates.

(ii) **The online sales and use tax rate look up application (GIS).** This is an online application that provides current and past sales and use tax rates and location codes based on an address or a selected location on a map. It also allows users to download data that they can incorporate into their own systems to retrieve the proper tax rate for a specific address.

(iii) **Taxing jurisdiction maps.** The department has a selection of maps of various taxing jurisdictions that identify the boundaries of a specific taxing jurisdiction.

(b) Of what key terms should I be aware when reading this section?

(i) **"Receipt" and "receive"** mean taking possession of tangible personal property and making first use of services. "Receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser. See RCW 82.32.-730 (8)(d).

(ii) **"Retail sale"** has the same meaning as provided in RCW 82.04.050 and includes the following three types of retail sales: Sales and leases of tangible personal property; sales of retail services; and sales of extended warranties.

(iii) **"Retail service"** means those services described in RCW 82.04.050 as retail sales. This definition includes retail sales of labor and services rendered with respect to tangible personal property.

The following is a nonexclusive list of retail services, many of which are addressed in detail in other rules adopted by the department:

- Constructing, remodeling, or painting buildings (e.g., see WAC 458-20-170);
- Land clearing and earth moving (e.g., see WAC 458-20-172);
- Landscape maintenance and horticultural services (e.g., see WAC 458-20-226);
- Repairing or cleaning equipment (e.g., see WAC 458-20-173);
- Lodging provided by hotels and motels (e.g., see WAC 458-20-166);
- Amusement and recreation services such as golf, bowling, swimming, and tennis (e.g., see WAC 458-20-183);
- Physical fitness services such as exercise classes, personal trainer services, and the use of exercise equipment (e.g., see WAC 458-20-183); and
- Abstract, title insurance, or escrow services (e.g., see WAC 458-20-156).

(iv) **"Tangible personal property"** means property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses and includes pre-written software. See RCW 82.08.010(7), 82.08.950, and 82.12.950 for more information.

(v) **"Extended warranty"** is an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. See RCW 82.04.050(7).

(vi) **"Motor vehicle"** generally means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails. Motor vehicles are vehicles capable of being moved upon public ways. "Motor vehicle" includes a neighborhood electric vehicle as defined in RCW 46.04.357. "Motor vehicle" includes a medium-speed electric vehicle as defined in RCW 46.04.295. An electric personal assistive mobility device is not considered a motor vehicle. A power wheelchair is not considered a motor vehicle. For more information see RCW 46.04.320 "Motor vehicle" and RCW 46.04.670 "Vehicle."

(vii) **"Primary property location"** is the property's physical address as provided by the lessee and kept in the lessor's records maintained in the ordinary course of business,

provided use of this address does not constitute bad faith. The primary property location will not change merely by intermittent use of the leased property in different local jurisdictions, e.g., use of leased business property on business trips or service calls to multiple jurisdictions.

(viii) **"Transportation equipment"** refers to:

(A) Locomotives and railcars used to carry people or property in interstate commerce; and

(B) Trucks and truck tractors with gross vehicle weight ratings of 10,000 pounds or greater, trailers, and semi-trailers, or passenger buses registered through an international registration plan and operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation (or other federal authority) to engage in carrying people or property in interstate commerce (International Registration Plan is a reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of total distance operated in all jurisdictions); and

(C) Aircraft operated by air carriers authorized and certificated by the U.S. Department of Transportation (or other federal or foreign authority) to carry people or property by air in interstate or foreign commerce; and

(D) Containers designed for use on and component parts attached or secured on the items described in (b)(viii)(A) through (C) of this subsection (1). RCW 82.32.730 (8)(e).

(2) **Local retail sales tax sourcing.** This subsection describes Washington's retail sales tax sourcing rules. Subsection (2)(a) of this section lists the general sourcing rules applicable to the sale of tangible personal property, retail services, and extended warranties. Subsection (2)(b) of this section provides special sourcing rules related to certain "florist sales" and the sale of watercraft; mobile, modular, and manufactured homes; and motor vehicles, trailers, semi-trailers, and aircraft that do not qualify as transportation equipment. Subsection (2)(c) of this section addresses the sourcing rules applicable to leases of tangible personal property.

(a) **Sales of tangible personal property, retail services, and extended warranties.** This subsection describes the sourcing rules applicable to the sale of tangible personal property, retail services, and extended warranties.

These rules apply in a descending order of priority. This means that the seller first should determine if (a)(i) of this subsection (Rule 1 below) applies. If it does apply, then the seller must source the sale under Rule 1. If Rule 1 does not apply, then the seller must source the sale to the location required under sourcing Rule 2 (below), and so forth until the applicable sourcing rule is determined.

If the seller ships or delivers tangible personal property to a customer who receives that property outside Washington, the sale is deemed to have taken place outside Washington and is not subject to Washington state or local retail sales tax.

The following rules apply when sourcing retail sales in Washington:

(i) **Rule 1: Seller's business location.** If a purchaser receives tangible personal property, a retail service, or an extended warranty at the seller's business location, the sale is sourced to that business location.

In the case of retail services, this sourcing rule will generally apply where a purchaser receives retail services at the

seller's place of business, e.g., an auto repair shop, a hotel or motel, a health club providing physical fitness services, an auto parking service, a dry-cleaning service, and a storage garage. While these types of retail services are usually received at the seller's place of business, if services are received at a location other than the seller's place of business, then alternate sourcing rules will apply.

(A) Examples: Rule 1 - Tangible Personal Property.

(1) Bill, a Tacoma resident, travels to Renton and purchases a ring from a jeweler located in Renton. Bill receives the ring at the Renton location. The seller must source the sale to the Renton location.

(2) Mary, a Walla Walla resident, buys a prewritten software program from a store located in Cheney. Mary receives a compact disc containing the software at the Cheney location. The seller must source the sale to the Cheney location.

(3) Trains, Inc., an Auburn business, buys a locomotive that qualifies as transportation equipment. Trains, Inc. receives the locomotive in Fife at the seller's place of business. The seller must source the sale to the Fife location.

(B) Examples: Rule 1 - Retail Services.

(1) Barbara, a Longview resident, takes her car to a mechanic shop located in Centralia. The mechanic services the car at the Centralia location. Several days later Barbara picks up the car from the Centralia location. The services are received in Centralia. The mechanic must source the sale to the Centralia location.

(2) Rex, a Seattle resident, drops off a roll of film at a photo developer located in Bellevue. Rex picks up the developed film from the Bellevue location. The services are received in Bellevue. The developer must source the sale to the Bellevue location.

(3) Bob, a Pasco resident, takes shirts to a drycleaner located in Kennewick. The drycleaner cleans and presses the shirts. Bob then picks up the shirts in Kennewick the following week. The services are received in Kennewick. The seller must source the sale to the Kennewick location.

(C) Example: Rule 1 - Extended Warranties.

(1) Saffron, a Des Moines resident, buys a computer from a Burien computer outlet. When purchasing the computer Saffron also purchases and receives a five-year extended warranty for the computer at the Burien outlet. The seller must source the sale of the extended warranty and computer to the Burien location.

(ii) Rule 2: Tangible personal property, retail services, or extended warranties received at a location other than the seller's place of business. If the purchaser receives tangible personal property, retail services, or an extended warranty at a location other than the seller's place of business (and sourcing Rule 1 therefore does not apply), then the sale must be sourced to the location where the purchaser, or the purchaser's donee (e.g., a gift), receives such property, retail service, or extended warranty. This location can be a location indicated in instructions, known to the seller, for delivery to the purchaser or donee.

Construction contractors, painters, plumbers, carpet layers (retailers who install what they sell), earth movers, and house wreckers are the types of retail service providers that typically will source sales under this sourcing Rule 2 (pre-

suming they provide their services at a location other than their place of business).

(A) Examples: Rule 2 - Tangible Personal Property.

(1) Wade, a Seattle resident, buys furniture from a store located in Everett. Wade has the furniture delivered to his Seattle residence. Wade receives the furniture at his location in Seattle. The seller must source the sale to Wade's Seattle residence.

(2) Joanne, a Port Angeles business owner, purchases a prewritten software program online from a store located in Sequim. Joanne receives the software at her home address in Port Angeles. The seller has information identifying the location where the software is electronically received by Joanne in Port Angeles. The seller must source the sale to Joanne's Port Angeles home location.

(3) Jean, a Tumwater resident, buys prewritten software to detect online security threats. The seller is a store located in Bothell. As part of the purchase price, Jean receives prewritten software updates. All software is electronically delivered. The seller does not know where the software is electronically delivered. However, the purchase order discloses a ship-to address where the software will be received in Tumwater. The seller must source the sale to Jean's ship-to address as this address represents a delivery location indicated in instructions for delivery to Jean. The seller must source the sale to the Tumwater location according to the ship-to address.

(4) Karl, a Spokane Valley resident, buys a mattress at a store in Spokane. The merchant delivers the mattress from its warehouse located in Deer Park to Karl's home in Spokane Valley. Karl receives the mattress at his home location in Spokane Valley. The seller must source the sale to the Spokane Valley home location.

(5) George, an Olympia resident, orders a pizza from a restaurant located in Tumwater. The restaurant obtains George's Olympia address when taking the order. George receives the pizza at the Olympia address. The seller must source the sale to Olympia according to George's Olympia address.

(6) Gunther, a Sumner resident, places an order for towels with a catalog mail order outlet located in Tacoma. The seller delivers the towels to Gunther's home at a Sumner location from a warehouse in Fife. Gunther receives the towels at the Sumner location. The seller must source the sale to Gunther's Sumner home location.

(B) Examples: Rule 2 - Retail Services.

(1) Brett, a Tacoma resident, contracts with an Olympia painting firm to have his house repainted. The Olympia firm sends employees to Brett's home in Tacoma where they perform the painting. Brett receives the painting services at his home in Tacoma. The painting firm must source the sale of painting services to Brett's Tacoma home location.

(2) Julie, an Aberdeen resident, hires a construction contractor to build a new business facility in Kelso. Julie receives the construction services at the Kelso location. The contractor must source the services to the Kelso construction location.

(3) Gabe, a Shoreline resident, sends a clock to a repair business located in Auburn. The business repairs the clock and then delivers the clock to Gabe's home in Shoreline.

Gabe receives the services at the Shoreline location. The repair service must source the sale to Gabe's Shoreline home location.

(C) Example: Rule 2 - Extended Warranties.

(1) Tara, a Chelan resident, buys a computer over the internet. The retailer offers a five year extended warranty. Tara decides to purchase the extended warranty and sends the seller the appropriate paperwork. The seller then sends the extended warranty documents to Tara's home in Chelan. The sale of the extended warranty is sourced to the Chelan home location where Tara receives the warranty documents.

(D) Additional Examples: Rule 2 - Delivery Outside Washington, Gifts, and Receipt by a Shipping Company.

(1) Alan, a Spokane resident, buys a mattress at a store in Spokane. The merchant delivers the mattress from its warehouse located in Deer Park to Alan's vacation home in Idaho. The mattress was received outside of Washington and is not subject to Washington state and local sales tax. The seller does not source the sale to Washington.

(2) Sandra, a Vancouver, Washington resident, buys a computer online from a merchant in Seattle. The computer is a gift for Tim, a student attending college in Pullman. The purchaser directs the seller to ship the computer to Tim's home address in Pullman. Tim receives the computer at the Pullman location. The merchant will source the sale based on the ship-to address in Pullman.

(3) Martha, a Wenatchee resident, travels to a gift shop in Leavenworth. Martha buys five (5) items for herself and five (5) gifts for friends. Martha takes possession of the five (5) items for herself at the gift shop. Martha then has the gift shop deliver the five (5) gifts to addresses located in Wenatchee. The seller will source the sale of the five (5) items purchased by Martha for herself to Leavenworth. The seller must source the five (5) gifts to Wenatchee according to the ship-to address where each donee receives its gift.

(4) Sheila, a Yakima resident, buys equipment from a Pasco retailer. Sheila arranges to have a shipping company pick up the equipment and deliver that equipment to Sheila in Yakima. In the purchase order Sheila notifies the seller that the equipment will be received at a ship-to address in Yakima. Tangible personal property is not considered received at the seller's place of business in cases where the purchaser arranges to have the goods picked up by a shipping company on its behalf. The seller must source this sale to Sheila's ship-to Yakima location where the equipment is received.

(iii) Rule 3: Purchaser's address maintained in the seller's ordinary business records. If neither sourcing Rule 1 nor Rule 2 apply, a retail sale is sourced to the purchaser's address as indicated in the seller's records maintained in the ordinary course of the seller's business, provided use of this address does not constitute bad faith.

Example - Rule 3.

(1) Shannon buys prewritten software from a Bellevue seller by downloading the software from the seller's web site. Shannon's location is unknown at the time of sale. However, the seller maintains a Seabeck address for Shannon in its business records. Because Shannon does not receive the software at the seller's place of business and the location of receipt is unknown, sourcing Rules 1 and 2 do not apply. The

seller must source the sale to the address maintained in its ordinary business records for Shannon (the Seabeck address).

(iv) Rule 4: Purchaser's address obtained at the consummation of sale. If any of sourcing Rules 1 through 3 do not apply, the sale is sourced to the purchaser's address obtained during the consummation of sale. If no other address is available, this address may be the address included on the purchaser's payment instrument (e.g., check, credit card, or money order), provided use of this address does not constitute bad faith.

Example - Rule 4.

(1) Eric buys prewritten software over the internet from a retail outlet located on Vashon Island. The seller transmits the prewritten software to an e-mail address designated by Eric. The e-mail address does not disclose Eric's location. Eric pays for the software by credit card. When entering the relevant credit card information, Eric discloses a residential address in Port Angeles to which the credit card is billed. Sourcing Rules 1 and 2 do not apply because Eric does not receive the software at the seller's business location and the seller does not know where the software is being received. Sourcing Rule 3 does not apply because the retail outlet does not have Eric's address on file in its ordinary business records. Therefore, the retail outlet must source the sale to the address related to the customer's credit card information given during the consummation of the sale. The retail outlet must source the sale to Eric's Port Angeles location.

(v) Rule 5: Origin sourcing default rule. If a seller is unable to source a sale under any of the sourcing Rules 1 through 4 above, or the seller has insufficient information to apply those rules, the default origin sourcing rule applies. Subsection (2)(b)(v)(A) through (C) of this section describes sourcing Rule 5 as it applies to the sale of tangible personal property, retail services, and extended warranties.

(A) Origin sourcing: Tangible personal property. If any of sourcing Rules 1 through 4 do not apply, the seller must source sales of tangible personal property to the address from which the property was shipped.

(B) Origin sourcing: Electronically delivered pre-written software. If any of the sourcing Rules 1 through 4 do not apply, the seller must source sales of electronically delivered prewritten computer software to the address location from which the computer software was first available for transmission by the seller. Locations that merely provide for the transfer of computer software are not address locations from which the computer software is first available for transmission.

(C) Origin sourcing: Retail services and extended warranties. If any of sourcing Rules 1 through 4 do not apply, the seller must source retail services and extended warranties to the address from which it provides the service or warranty.

(D) Examples: Rule 5 - Prewritten Software.

(1) Rebecca purchases prewritten computer software electronically and requests that the software be delivered to a specified e-mail address. The seller operates from a retail store located in Tacoma. The seller does not know the location where the software will be received and further does not have information about Rebecca's location in its ordinary business records. Additionally, Rebecca does not supply the

seller with address information during the consummation of the sale. Thus, none of sourcing Rules 1 through 4 apply. This sale must be sourced under the default sourcing rule. The seller first made the prewritten software available for transmission at its Tacoma location. The seller will source the sale to that Tacoma location from which the prewritten software was first available for transmission. This result will not change if the software is routed from a Tacoma server through a second server (either operated by the seller or some third party) located outside of the Tacoma location. Routing as used in this context refers to the transfer of prewritten software from one location to another location for retransmission to a final destination, and does not include transfers to another location where additional services or products may be added.

(2) Assume the facts in Example (1) directly above, except that Rebecca's order is submitted to the Tacoma location and the prewritten software is first available for transmission from a Bellevue location. The seller will source the sale to the Bellevue location.

(b) Special sourcing rule: Florist sales and sales of watercraft; modular, mobile, and manufactured homes; and motor vehicles, trailers, semi-trailers, and aircraft that do not qualify as transportation equipment. If you are a "florist" making sales or you are making a retail sale of watercraft; modular, mobile, or manufactured homes; or motor vehicles, trailers, semi-trailers, and aircraft that do not qualify as transportation equipment (excluding leases and rentals), you must source the sale to the location at or from which delivery is made. For specific information concerning "florist sales," who qualifies as a "florist," and the related sourcing rules see RCW 82.32.730 (6)(d) and (8)(c) as amended by Senate Bill No. 6799, chapter 324, Laws of 2008.

When the sale of goods is delivered into Washington from a point outside the state and a local in-state facility, office, outlet, agent or other representative (even though not formally characterized as a "salesperson") of the seller participates in the transaction in some way, such as by taking the order, then the location of the local facility, etc., will determine the place of sale for purposes of the local sales tax. However, if the seller, the seller's agent or the seller's representative maintains no local in-state facility, office, outlet or residence from which business in some manner is conducted, the local tax must be determined by the location of the customer.

Example: Special Sourcing Rule.

(1) Ben, a Federal Way purchaser, buys a car from a dealer in Fife. The customer has the option of picking up the car on the lot in Fife or having it delivered to his residential address in Federal Way. Ben asks to have the car delivered to the Federal Way location. The dealer must source the sale of the car to the dealer's location in Fife from which the car was delivered.

(c) Leases of tangible personal property. "Lease" and "rental" mean any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. For more information concerning "leases" and "rentals" see RCW 82.04.040. The terms "lease" and "rental" are used interchangeably throughout this subsection (2)(c).

This subsection (2)(c) provides local retail sales tax sourcing guidance for lessors who lease tangible personal property.

(i) How do I source lease payments attributable to the lease of transportation equipment? If you are leasing transportation equipment, you must source the lease payments attributable to that transportation equipment under sourcing Rules 1 through 5 above as a retail sale. See subsection (1)(b)(viii) of this section for a description of transportation equipment.

(ii) How should I source lease payments attributable to the lease of motor vehicles, trailers, semi-trailers, and aircraft that do not qualify as transportation equipment? If you are leasing a motor vehicle, trailer, semi-trailer, or aircraft that does not qualify as transportation equipment, you must source the lease payments under this subsection (2)(c)(ii).

(A) Leases that require recurring periodic payments. If the lease requires recurring periodic payments, you must source each periodic payment to the primary property location of the leased property. See subsection (1)(b)(vii) of this section for a description of primary property location. The primary property location will not change by intermittent use of the leased property in different jurisdictions, e.g., use of leased business property on business trips or service calls to multiple local jurisdictions.

(B) Leases that do not require recurring periodic payments. If the lease does not require recurring periodic payments, you must source the single lease payment under sourcing Rules 1 through 5 above as a retail sale.

(C) Examples:

(1) Rich, a Fall City customer, leases a car from a dealer in Duvall. Rich leases the car for a period of one year. The car does not qualify as transportation equipment. Rich provides the dealer with his residential address in Fall City where he keeps the car. Rich makes monthly periodic payments throughout the term of the lease. Rich indicates the primary property location for the car is his residence in Fall City. The Fall City location is recorded in the store's business records. The periodic lease payments will be sourced to the residential primary property location in Fall City. If Rich were to move to Seattle during the term of the lease and notify the dealer of a change in the car's primary property location, the dealer would source any lease payments subsequent to that change in primary property location to Seattle.

(2) Amanda, a Tacoma business owner, rents a trailer for a period of one week and no periodic payments are required under the lease. The trailer does not qualify as transportation equipment. Amanda receives the trailer at a business location in Tacoma. The seller will source the sale to the Tacoma business location.

(iii) How do I source lease payments for all other tangible personal property? If you lease tangible personal property not described in subsection (2)(c)(i) or (ii) of this section, you must source your lease payments under this subsection (2)(c)(iii).

(A) Lease that requires recurring periodic payments. If the lease requires recurring periodic payments, you must source the first periodic payment on that lease under sourcing Rules 1 through 5 as a retail sale. You must then source all subsequent periodic payments to the primary property loca-

tion for each period covered by such periodic payments. See subsection (1)(b)(vii) of this section for a description of primary property location. The primary property location will not change by intermittent use of the leased property in different local jurisdictions, e.g., use of leased business property on business trips or service calls to multiple local jurisdictions.

(B) Leases that do not require recurring periodic payments. If the lease does not require recurring periodic payments, you must source the single payment under sourcing Rules 1 through 5 as a retail sale.

(C) Examples:

(1) Mark, a Gig Harbor resident, leases furniture from a store in Bremerton. The furniture will be leased for twelve months. The store delivers the furniture to Mark's home address in Gig Harbor. Mark indicates the primary property location for the equipment is his home address in Gig Harbor. The Gig Harbor location is recorded in the store's business records. The customer makes monthly periodic payments for the term of the lease. The first periodic payment must be sourced to Gig Harbor where Mark receives the furniture. The store must then source all subsequent periodic payments to Gig Harbor, which represents the primary property location recorded in the store's ordinary business records.

(2) Brad, a Pasco business owner, leases furniture from a store in Spokane. Brad picks up the furniture in Spokane and makes the initial periodic payment on the lease. The furniture is leased for a period of twelve months. Brad indicates the primary property location for the equipment is a business address in Pasco. The Pasco location is recorded in the store's business records. Brad then makes monthly periodic payments for the term of the lease. The first periodic payment must be sourced to Spokane where Brad received the furniture. The store must source the subsequent periodic payments to the Pasco primary property location.

(3) Alison, a Seattle business owner, leases equipment from a store in Issaquah. Alison picks up the equipment in Issaquah and makes an initial periodic payment on the lease. The equipment is used in work primarily performed in Washington, but the equipment is also taken out intermittently on a number of service calls made in Oregon. Alison indicates the primary property location for the equipment is a business address in Seattle. The Seattle location is recorded in the store's business records. The equipment is leased for a period of one year. Alison makes monthly periodic payments for the term of the lease. The first periodic payment must be sourced to Issaquah where the equipment is received. The store must source the subsequent periodic payments to Seattle, which represents the primary property location. Alison's intermittent use of the equipment in other jurisdictions does not change the primary property location of the equipment.

(4) Amelia, a Pasco business owner, leases equipment from a store located in Pasco. Amelia picks up the equipment in Pasco, making an initial periodic payment on the lease. The lease is for a period of one year. During the first six months of the lease, Amelia indicates the primary property location for the equipment is a business address in Walla Walla. For the second six months of the lease, Amelia indicates the primary property location is a business address in Leavenworth. The store records the primary property loca-

tions in its business records. The store must source the initial periodic payment to Pasco where Amelia received the equipment. The store must source all other periodic lease payments covering the first six months of the lease to the primary property location recorded for Walla Walla. The store must source those periodic lease payments covering the last six months of the lease to the primary property location in Leavenworth.

(5) Brian, a North Bend business owner, rents a backhoe from Construction Rentals located in Lynnwood. The lease period is 45 days and the lease requires a single lease payment. Brian pays the entire lease amount at the time of pickup. The customer picks up the equipment in Lynnwood and takes it to a job site in DuPont. Construction Rentals must source the sale to the location in Lynnwood where Brian receives the backhoe.

(6) Lisa, an Olympia business owner, rents a pressure washer from Rental Co. located in Lacey. The rental period is one day and no periodic payments are required under the lease. Lisa picks up the equipment in Lacey and takes it to a job site in Yelm. Sales tax is sourced to the seller's location in Lacey. If Rental Co. delivered the pressure washer directly to Lisa at the job site in Yelm, the sale would have been sourced to the location of the job site in Yelm.

(3) Telecommunications services.

Where can I find information related to the sourcing and sale of telecommunication services? Sales of telecommunication services and ancillary services are defined as retail sales in RCW 82.04.050. Sellers must source these services under the sourcing provisions located in RCW 82.32.-520. See RCW 82.04.065 for more information about telecommunication services and ancillary services.

(4) Use tax. How is use tax sourced in Washington? Where a seller does not have an obligation to collect Washington sales tax, the tangible personal property or service sold by that person may be subject to use tax under chapter 82.12 RCW et seq. This use tax is sourced to the place of first use and is payable by the purchaser. The seller may be required to collect use tax pursuant to the requirements of RCW 82.12.040.

WSR 08-12-036

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed May 30, 2008, 11:06 a.m., effective July 1, 2008]

Effective Date of Rule: July 1, 2008.

Purpose: These rule changes implement fee increases for WAC 246-310-990 Certificate of need, 246-329-990 Childbirth centers, 246-335-990 In-home services agencies, and 246-337-990 Residential treatment facilities. This allows these programs to continue the current level of public health activities in licensing, surveys and complaint investigations during fiscal year 2009.

Citation of Existing Rules Affected by this Order: Amending WAC 246-310-990, 246-329-990, 246-335-990, and 246-337-990.

Statutory Authority for Adoption: RCW 43.70.250, 70.38.105, 18.46.030, 70.127.090, 43.70.040.

Adopted under notice filed as WSR 08-07-061 on March 17, 2008.

Changes Other than Editing from Proposed to Adopted Version: The proposed rule language was not adopted for WAC 246-380-990 State institutional survey.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: May 30, 2008.

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 03-22-020, filed 10/27/03, effective 11/27/03)

WAC 246-310-990 Certificate of need review fees. (1)

An application for a certificate of need under chapter 246-310 WAC must include payment of a fee consisting of the following:

- (a) A review fee based on the facility/project type;
- (b) If more than one facility/project type applies to an application, the review fee for each type of facility/project must be included.

| Facility/Project Type | Review Fee |
|---|---|
| Ambulatory Surgical Centers/Facilities | \$ ((13,379.00)) <u>17,392.00</u> |
| Amendments to Issued Certificates of Need | \$ ((8,432.00)) <u>10,961.00</u> |
| Emergency Review | \$ ((5,427.00)) <u>7,055.00</u> |
| Exemption Requests | |
| • Continuing Care Retirement Communities (CCRCs)/Health Maintenance Organization (HMOs) | \$ ((5,427.00)) <u>7,055.00</u> |
| • Bed Banking/Conversions | \$ ((883.00)) <u>1,147.00</u> |
| • Determinations of Nonreviewability | \$ ((1,261.00)) <u>1,639.00</u> |
| • Hospice Care Center | \$ ((1,136.00)) <u>1,476.00</u> |
| • Nursing Home Replacement/Renovation Authorizations | \$ ((1,136.00)) <u>1,476.00</u> |

| | |
|--|---|
| • Nursing Home Capital Threshold under RCW 70.38.105 (4)(e) (Excluding Replacement/Renovation Authorizations) | \$ ((1,136.00)) <u>1,476.00</u> |
| • Rural Hospital/Rural Health Care Facility | \$ ((1,136.00)) <u>1,476.00</u> |
| Extensions | |
| • Bed Banking | \$ ((505.00)) <u>656.00</u> |
| • Certificate of Need/Replacement Renovation Authorization Validity Period | \$ ((505.00)) <u>656.00</u> |
| Home Health Agency | \$ ((16,155.00)) <u>21,001.00</u> |
| Hospice Agency | \$ ((14,388.00)) <u>18,704.00</u> |
| Hospice Care Centers | \$ ((8,432.00)) <u>10,961.00</u> |
| Hospital (Excluding Transitional Care Units-TCUs, Ambulatory Surgical Center/Facilities, Home Health, Hospice, and Kidney Disease Treatment Centers) | \$ ((26,506.00)) <u>34,457.00</u> |
| Kidney Disease Treatment Centers | \$ ((16,409.00)) <u>21,331.00</u> |
| Nursing Homes (Including CCRCs and TCUs) | \$ ((30,293.00)) <u>39,380.00</u> |

(2) The fee for amending a pending certificate of need application is determined as follows:

(a) If an amendment to a pending certificate of need application results in the addition of one or more facility/project types, the review fee for each additional facility/project type must accompany the amendment application;

(b) If an amendment to a pending certificate of need application results in the removal of one or more facility/project types, the department shall refund to the applicant the difference between the review fee previously paid and the review fee applicable to the new facility/project type; or

(c) If an amendment to a pending certificate of need application results in any other change as identified in WAC 246-310-100, a fee of one thousand ~~((three))~~ seven hundred ~~((fifty-one))~~ fifty-six dollars must accompany the amendment application.

(3) If a certificate of need application is returned by the department under WAC 246-310-090 (2)(b) or (e), the department shall refund seventy-five percent of the review fees paid.

(4) If an applicant submits a written request to withdraw a certificate of need application before the beginning of review, the department shall refund seventy-five percent of the review fees paid by the applicant.

(5) If an applicant submits a written request to withdraw a certificate of need application after the beginning of review, but before the beginning of the ex parte period, the department shall refund one-half of all review fees paid.

(6) If an applicant submits a written request to withdraw a certificate of need application after the beginning of the ex parte period the department shall not refund any of the review fees paid.

(7) Review fees for exemptions and extensions are non-refundable.

AMENDATORY SECTION (Amending WSR 07-07-075, filed 3/16/07, effective 4/16/07)

WAC 246-329-990 Fees. The purpose of the fees section is to describe the fees associated with licensing, renewal and other charges assessed by the department.

(1) Childbirth centers licensed under chapter 18.46 RCW shall submit an annual fee of ~~((five))~~ seven hundred ~~((ninety-nine))~~ thirteen dollars and ~~((ninety))~~ zero cents to the department unless a center is a charitable, nonprofit, or government-operated institution under RCW 18.46.030.

(2) A change of ownership fee of one hundred ~~((fifty))~~ seventy-eight dollars. A new license will be issued and valid for the remainder of the current license period.

(3) The department may charge and collect from a licensee a fee of ~~((seven))~~ eight hundred ~~((fifty))~~ ninety-two dollars for:

- (a) A second on-site visit resulting from failure of the licensee to adequately respond to a statement of deficiencies;
- (b) A complete on-site survey resulting from a substantiated complaint; or
- (c) A follow-up compliance survey.

(4) A licensee shall submit an additional late fee in the amount of ~~((twenty-five))~~ twenty-nine dollars per day, not to exceed five hundred ninety-five dollars, from the renewal date (which is thirty days before the current license expiration date) until the date of mailing the fee, as evidenced by the postmark.

| # of FTEs | Home Health | Hospice | Home Care | # of Beds | Hospice Care Center |
|-------------|---|---|---|-----------|---|
| 5 or less | \$(1,966.00)) <u>2,162.00</u> | \$(983.00)) <u>1,081.00</u> | \$(590.00)) <u>649.00</u> | 5 or less | \$(655.00)) <u>720.00</u> |
| 6 to 15 | \$(2,765.00)) <u>3,041.00</u> | \$(1,035.00)) <u>1,138.00</u> | \$(1,068.00)) <u>1,174.00</u> | 6 to 10 | \$(1,311.00)) <u>1,442.00</u> |
| 16 to 50 | \$(3,146.00)) <u>3,460.00</u> | \$(1,540.00)) <u>1,694.00</u> | \$(1,147.00)) <u>1,261.00</u> | 11 to 15 | \$(1,966.00)) <u>2,162.00</u> |
| 51 to 100 | \$(3,965.00)) <u>4,361.00</u> | \$(2,467.00)) <u>2,713.00</u> | \$(1,343.00)) <u>1,477.00</u> | 16 to 20 | \$(2,621.00)) <u>2,883.00</u> |
| 101 or more | \$(4,083.00)) <u>4,491.00</u> | \$(2,595.00)) <u>2,854.00</u> | \$(1,442.00)) <u>1,586.00</u> | | |

- (d) For multiple service category licenses:
 - (i) One hundred percent of the home health category fee and seventy-five percent of the appropriate service category fee for each additional service category (hospice, home care, hospice care center); or
 - (ii) One hundred percent of the hospice category fee and seventy-five percent of the appropriate service category fee for each additional service category (home care, hospice care center); and

(5) Refunds. The department shall refund fees paid by the applicant for initial licensure as follows:

(a) If an application has been received but no on-site survey or technical assistance has been performed by the department, two-thirds of the fees paid, less a fifty dollar processing fee; or

(b) If an application has been received and an on-site survey or technical assistance has been performed by the department, one-third of the fees paid, less a fifty dollar processing fee.

- (c) The department may not refund applicant fees if:
 - (i) The department has performed more than one on-site visit for any purpose;
 - (ii) One year has elapsed since an initial licensure application is received by the department, but no license is issued because applicant failed to complete requirements for licensure; or
 - (iii) The amount to be refunded as calculated by (a) or (b) of this subsection is ten dollars or less.

AMENDATORY SECTION (Amending WSR 04-19-142, filed 9/22/04, effective 10/23/04)

WAC 246-335-990 Fees. (1) A licensee or applicant shall submit to the department:

(a) An initial twelve-month license fee of ~~((one thousand nine hundred sixty-six))~~ two thousand one hundred sixty-two dollars for each service category for new persons not currently licensed in that category to provide in-home services in Washington state, or currently licensed businesses which have had statement of charges filed against them;

(b) A twenty-four month renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency personnel or contractors, or the number of beds, as follows:

(c) For single service category licenses:

(e) A change of ownership fee of ~~((one hundred ninety-seven))~~ two hundred sixteen dollars for each licensed service category. A new license will be issued and valid for the remainder of the current license period.

(2) The department may charge and collect from a licensee a fee of ~~((nine hundred eighty-three))~~ one thousand eighty-one dollars for:

(a) A second on-site visit resulting from failure of the licensee to adequately respond to a statement of deficiencies:

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(3) A licensee with deemed status shall pay fees according to this section.

(4) A licensee shall submit an additional late fee in the amount of ~~((thirty-three))~~ thirty-six dollars per day, not to exceed five hundred fifty dollars, from the renewal date (which is thirty days before the current license expiration date) until the date of mailing the fee, as evidenced by the postmark.

(5) Refunds. The department shall refund fees paid by the applicant for initial licensure as follows:

(a) If an application has been received but no on-site survey or technical assistance has been performed by the department, two-thirds of the fees paid, less a fifty dollar processing fee; or

(b) If an application has been received and an on-site survey or technical assistance has been performed by the department, one-third of the fees paid, less a fifty dollar processing fee.

(6) The department may not refund applicant fees if:

(a) The department has performed more than one on-site visit for any purpose;

(b) One year has elapsed since an initial licensure application is received by the department, but no license is issued because applicant failed to complete requirements for licensure; or

(c) The amount to be refunded as calculated by subsection (5)(a) or (b) of this section is ten dollars or less.

AMENDATORY SECTION (Amending WSR 06-21-108, filed 10/17/06, effective 11/17/06)

WAC 246-337-990 Licensing fees. A licensee must submit the following fees to the department:

| FEE TYPE | AMOUNT |
|--|---|
| Administrative processing/ initial application fee | \$((155.00)) <u>204.00</u> |
| License bed fee (per bed) | \$((144.60)) <u>190.00</u> |
| Annual renewal fee (per bed) | \$((144.60)) <u>190.00</u> |
| Late fee (per bed) | \$((25.00)) <u>33.00</u> (up to \$((500.00)) <u>660.00</u>) |
| Follow-up compliance survey fee or a complete on-site survey fee resulting from a substantiated complaint | \$((1000.00)) <u>1,320.00</u> |

(1) The department shall refund fees paid by the applicant for initial licensure if:

(a) The department has received an application but has not conducted an on-site survey or provided technical assistance. The department shall refund two-thirds of the fees paid, less a fifty dollar processing fee;

(b) The department has received an application and has conducted an on-site survey or provided technical assistance. The department shall refund one-third of the fees paid, less a fifty dollar processing fee.

(2) The department will not refund fees paid by the applicant if:

(a) The department has conducted more than one on-site visit for any purpose;

(b) One year has elapsed since the department received an initial licensure application, and the department has not issued a license because the applicant failed to complete requirements for licensure; or

(c) The amount to be refunded as calculated by subsection (1)(a) or (b) of this section is ten dollars or less.

WSR 08-12-037

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed May 30, 2008, 11:21 a.m., effective July 1, 2008]

Effective Date of Rule: July 1, 2008.

Purpose: The department is adding the residential algorithm to chapter 388-828 WAC. The residential algorithm determines the residential service levels of support for clients receiving supported living, group home, group training home, and companion home residential services. The department is amending the following sections to include references to the residential algorithm and the individual and family services algorithm: WAC 388-828-1060, 388-828-5020, 388-828-5140, 388-828-5520, and 388-828-8020. The department is amending the following sections to maintain consistency with the DDD computer based assessment, agency standards, and to correct references to other rules: WAC 388-828-1480, 388-828-1540, 388-828-1640, and 388-828-5940.

These rules incorporate the following emergency rules:

- WAC 388-828-5080 filed as WSR 08-05-021 which amends the WAC to accurately reflect the protective supervision age-based score adjustment.
- WAC 388-828-1200 through 388-828-1300 filed as WSR 08-07-018 which amends the WAC to remove penalties for clients and their families that decline to provide income information when receiving the DDD assessment.
- WAC 388-828-5360 filed as WSR 08-08-039 which amends the back-up caregiver availability table. The department will propose the other emergency rules included in WSR 08-08-039 when it proposes rules for the individual and family services program.

Citation of Existing Rules Affected by this Order:
Repealing WAC 388-828-1240, 388-828-1260 and 388-828-1280; and amending WAC 388-828-1060, 388-828-1200, 388-828-1220, 388-828-1300, 388-828-1480, 388-828-1540, 388-828-1640, 388-828-5020, 388-828-5080, 388-828-5140, 388-828-5360, 388-828-5520, 388-828-5940, and 388-828-8020.

Statutory Authority for Adoption: RCW 71A.12.30 [71A.12.030].

Other Authority: Title 71A RCW.

Adopted under notice filed as WSR 08-05-097 on February 15, 2008.

A final cost-benefit analysis is available by contacting Debbie Roberts, 640 Woodland Square Loop S.E., Lacey, WA 98504, phone (360) 725-3400, fax (360) 404-0955, e-mail roberdx@dshs.wa.gov.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 21, Amended 14, Repealed 3.

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

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

Date Adopted: May 28, 2008.

Robin Arnold-Williams
Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 08-14 issue of the Register.

Date Adopted: May 30, 2008.

Ralph Osgood
Assistant Director

AMENDATORY SECTION (Amending WSR 06-04-022, filed 1/23/06, effective 2/23/06)

WAC 308-15-150 Fees. (1) **Suspension of fees.** Effective ~~((March 1, 2006))~~ July 1, 2008, the listed fees shown in subsection (2) of this section are suspended and replaced with the following:

Renewal Fees

| | |
|--|--|
| Annual renewal fee for geologist | \$ ((20.00)) <u>70.00</u> |
| Annual renewal for each specialty | \$ ((25.00)) <u>70.00</u> |
| Annual renewal for geologist, with late fee <i>(if paid ninety days or more after due date)</i> | \$ ((40.00)) <u>140.00</u> |
| Annual renewal fee for each specialty, with late fee <i>(if paid ninety days or more after due date)</i> | \$ ((50.00)) <u>140.00</u> |

The fees set forth in this section shall revert back to the fee amounts shown in WAC 308-15-150 on July 1, ~~((2008))~~ 2011.

(2) **Fees.**

| Type of Fee | Amount |
|---|----------|
| Application fees - includes initial license | |
| Application fee for geologist (applying by examination) | \$100.00 |
| Application fee for each specialty (applying by examination) | \$100.00 |
| Application fee for geologist (applying by reciprocity) | \$200.00 |
| Application fee for each specialty (applying by reciprocity) | \$150.00 |
| Examination fees | |
| Fees for the fundamentals of geology and practice of geology examinations are submitted directly to ASBOG | |
| Administration fee for reexamination | \$65.00 |
| Specialty examination (hydrogeologist or engineering geologist exam) | \$300.00 |
| Renewal fees | |
| Annual renewal fee for geologist | \$100.00 |
| Annual renewal fee for each specialty | \$85.00 |
| Annual renewal for geologist, with late fee <i>(if paid ninety days or more after due date)</i> | \$200.00 |

WSR 08-12-039

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed May 30, 2008, 11:42 a.m., effective July 1, 2008]

Effective Date of Rule: July 1, 2008.

Purpose: The rule will extend suspension of renewal fees in an effort to maintain a balanced budget for the geologist licensing program.

Citation of Existing Rules Affected by this Order: Amending WAC 308-15-150 Geologist fees.

Statutory Authority for Adoption: RCW 18.220.040.

Adopted under notice filed as WSR 08-09-155 on April 23, 2008.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

| Type of Fee | Amount |
|--|----------|
| Annual renewal for each specialty, with late fee (<i>if paid ninety days or more after due date</i>) | \$170.00 |
| Miscellaneous fees | |
| Duplicate license or wall certificate . . . | \$25.00 |
| Certification of license records to other jurisdictions. | \$45.00 |
| Proctor examination for another jurisdiction | \$100.00 |

**WSR 08-12-040
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed May 30, 2008, 12:46 p.m., effective June 30, 2008]

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

Purpose: The rule making is a result of SHB 2118, which passed the 2007 legislature. This bill transferred the mobile and manufactured home installation program and the state administrative agency (SAA) programs from the department of community, trade, and economic development (CTED) to the department of labor and industries (L&I). Therefore, the department needs to adopt new rules to be consistent with the statute.

Citation of Existing Rules Affected by this Order: New sections WAC 296-150I-0010 Authority, purpose, scope, 296-150I-0020 What definitions apply to this chapter?, 296-150I-0030 What should the training program include?, 296-150I-0040 Examination—Failure—Retaking, 296-150I-0050 What is the application process?, 296-150I-0060 Manufactured home installer—Continuing education requirements, 296-150I-0070 Manufactured home installer certification renewal—Application process, 296-150I-0080 Notification to employer, 296-150I-0090 Requirement for applicable licenses and registrations, 296-150I-0100 Manufactured home on-site work and equipment installation—Manufactured home installer certification required, 296-150I-0110 Manufactured home installation, on-site work or equipment installation—Homeowner performing work on their own home—Exceptions, 296-150I-0120 Manufactured home installation permit and inspections—Obligation of certified installer, 296-150I-0130 Manufactured home installer—Responsibilities to the consumer, 296-150I-0140 Manufactured home installation—Installer certification tags required, 296-150I-0150 Installer certification tag—Issuance by local enforcement agency, 296-150I-0160 Installer certification tag—Placement—Removal, 296-150I-0170 Monthly certification tag report, 296-150I-0180 Alternative education providers—Approval process and compliance, 296-150I-0190 Legal action—Installer certification required, 296-150I-0200 How does the department ensure compliance with the requirements of chapter 43.22A RCW?, 296-150I-0210 What violations of RCW 43.22A.130 can result in the issuance of a notice of infraction?, 296-150I-0220 What information must be included include in a notice of infraction?, 296-150I-0230

Who can be issued a notice of infraction?, 296-150I-0240 How does a person, firm, contractor, partnership, corporation or certified installer appeal a notice of infraction?, 296-150I-0250 Who presides over an appeal hearing and where is it held?, 296-150I-0260 Who will represent the appellant and the department at the appeal hearings?, 296-150I-0270 How is the appeal hearing conducted?, 296-150I-0280 What does the department do with the appeal notices that they receive?, 296-150I-0290 When must a person, contractor, manufactured/mobile home dealer, manufacturer, or home dealers or manufacturer's agent pay assessed monetary penalties?, 296-150I-0300 Who establishes standards for installation of manufactured homes?, 296-150I-0310 What instructions are used for a manufactured home installation?, 296-150I-0320 How may I obtain a copy of the American National Standards Institute (ANSI) A225.1-Manufactured Homes Installation?, 296-150I-0330 What are the requirements for temporary placement of manufactured (mobile) homes?, 296-150I-0340 Do local enforcement agencies have special requirements for installing manufactured homes in hazardous areas?, 296-150I-0350 Who may install a manufactured home?, 296-150I-0360 Does a person who installs a manufactured home need an installation permit?, 296-150I-0370 Does a manufactured home installation require an inspection?, 296-150I-0380 How does the local enforcement agency gain access to the manufacturer's installation instructions?, 296-150I-0390 What are the requirements for on-site structures and who regulates them?, 296-150I-0400 What happens if a dispute arises concerning an installation requirement?, 296-150I-0410 What are the requirements if a home is damaged during transit or during set-up?, and 296-150I-3000 Penalties, fees, and refunds.

Statutory Authority for Adoption: Chapter 43.22A RCW and chapter 432, Laws of 2007 (SHB 2118).

Adopted under notice filed as WSR 08-08-095 on April 1, 2008.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 42, Amended 0, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 42, Amended 0, Repealed 0.

Date Adopted: May 30, 2008.

Judy Schurke
Director

Chapter 296-150I WAC

MANUFACTURED HOME INSTALLER TRAINING
AND CERTIFICATION PROGRAMNEW SECTION

WAC 296-150I-0010 Authority, purpose, scope. This chapter is authorized by chapter 43.22A RCW, Mobile and manufactured home installation, which requires the department to train and certify manufactured home installers.

NEW SECTION

WAC 296-150I-0020 What definitions apply to this chapter? (1) "**Administrative law judge**" is any person appointed by the chief administrative law judge (as defined in RCW 34.12.020(2)) to preside at a notice of infraction appeal hearing convened under chapter 43.22A RCW.

(2) "**Appeal hearing**" is any proceeding in which an administrative law judge is empowered to determine legal rights, duties or privileges of specific parties on behalf of the director.

(3) "**Appellant**" means any person, contractor, firm, partnership, corporation, or other entity that has filed an appeal.

(4) "**Certified manufactured home installer**" means a person who is in the business of installing mobile or manufactured homes and who has been issued a certificate by the department as provided in this chapter.

(5) "**Compliance inspector**" refers to the departmental staff responsible for investigating potential violations of chapter 43.22A RCW.

(6) "**Contractor**" is as defined in chapters 18.27, 18.106, and 19.28 RCW.

(7) "**Department**" refers to the department of labor and industries.

(8) "**Extension of the pressure relief valve for the water heater**" means extension to the outside of the home as described in the Uniform Plumbing Code.

(9) "**Infraction**" means a violation of chapter 43.22A RCW as cited by the department's compliance inspectors.

(10) "**Manufactured home**" means a single-family dwelling built in accordance with the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, which is a national, preemptive building code.

(11) "**Manufactured/mobile home dealer**" is defined in chapter 46.70 RCW.

(12) "**Manufacturer**" refers to a manufacturer of single-family dwellings built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, which is a national, preemptive building code.

(13) "**Mobile or manufactured home installation**" as defined in RCW 43.22A.010 does not include installation of electrical wires and equipment that convey electrical power to the home or to an outlet in the home, and does not include the ground crossover. Installation of electrical wires and equipment that convey electrical power to the home or to an outlet in the home must be performed by a journeyman or

specialty electrician as defined in chapter 19.28 RCW. Equipment does not include plug-in household appliances.

(14) "**Other equivalent experience**" means six months of hands-on experience installing manufactured homes under the guidance of a reputable, recognized manufactured home installer; or two years experience in residential or commercial construction.

(15) "**Site**" means the parcel of land designed to accommodate the dwelling and auxiliary structures.

NEW SECTION

WAC 296-150I-0030 What should the training program include? The training program must include, but not be limited to, the following topics:

- Relevant federal, state and local laws and standards;
- Supports, footings, anchors, site preparation, placement, closing in, plumbing, electrical, combustion appliances, skirting, interior, and exterior finishing;
- Operational checks and adjustments;
- Auxiliary structures; and
- Alterations.

The department will provide a training manual to each applicant as part of the training program, the contents of which will include, but not be limited to, the above topics.

NEW SECTION

WAC 296-150I-0040 Examination—Failure—Retaking. The examination must only include topics covered in the training program. In order to pass the examination, applicants must answer seventy percent of the questions correctly. An applicant who fails the examination will be permitted to retake the training course and/or the examination as often as is necessary to secure a passing rate of seventy percent.

NEW SECTION

WAC 296-150I-0050 What is the application process? A person desiring to be certified as a manufactured home installer under chapter 43.22A RCW must submit a signed application form to the department, which contains the following information:

(1) The applicant's full name and Social Security number of the person applying for certification. Social Security numbers are required on applications for professional licenses pursuant to RCW 26.23.150 and federal law PL 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) Application fee specified in WAC 296-150I-3000.

(3) Written affidavit documenting evidence of experience as required under RCW 43.22A.040.

(4) Any application received after the class cut-off date is subject to the late application fee specified in WAC 296-150I-3000.

(5) If the application is denied by the department as a result of the applicant's failure to meet the requirements of chapter 43.22A RCW and this chapter, the department will attempt to notify the applicant prior to the date the applicant is scheduled to attend the training and examination.

NEW SECTION

WAC 296-150I-0060 Manufactured home installer—Continuing education requirements. Certified manufactured home installers must complete a minimum of four credit hours of continuing education every three years. The continuing education credit hours may be satisfied by attending an annual class offered by the department or a class offered by an alternative education provider approved by the department pursuant to chapter 296-150I WAC. All fees required by WAC 296-150I-3000 for continuing education classes must be paid to the department in advance.

(1) Continuing education class curriculum will include statute, code, or rule changes and common installation problems.

(2) If a certified installer is unable to attend the continuing education classes offered by the department or alternative education provider, the installer may attend a regularly scheduled installer certification training course.

NEW SECTION

WAC 296-150I-0070 Manufactured home installer certification renewal—Application process. A certified manufactured home installer desiring to renew certification as a manufactured home installer under chapter 43.22A RCW must file a certification renewal application with the department.

(1) The application must:

(a) Be hand-delivered to the department or postmarked no later than midnight on the date of expiration of an installer's current certification.

(b) Be accompanied by the certification renewal fee specified in WAC 296-150I-3000.

(2) If a certified installer fails to apply for renewal and provide proof of continuing education within ninety days of the expiration of the installer's current certification, the installer must reapply for installer certification and meet all requirements for installer certification as set forth in chapter 43.22A RCW and this chapter.

(3) Before a new certification is issued, the certified installer must provide proof to the department that the certified installer has met the continuing education requirements set forth in this chapter.

(4) The department will attempt to notify installers prior to expiration; however, it is the installer's responsibility to ensure timely renewal.

NEW SECTION

WAC 296-150I-0080 Notification to employer. Where applicable, the department must send notice to the certificate holder's employer regarding revocation of an installer certification.

NEW SECTION

WAC 296-150I-0090 Requirement for applicable licenses and registrations. The issuance of a certificate of manufactured home installation by the department under chapter 43.22A RCW and these rules does not exempt the

certified installer from compliance with any local, state, or federal requirements relative to any business or occupational licenses or registrations.

NEW SECTION

WAC 296-150I-0100 Manufactured home on-site work and equipment installation—Manufactured home installer certification required. On-site work or equipment installation work which falls within the scope of installation as set forth in RCW 43.22A.010(6) shall not be performed on a manufactured home at any time after the initial installation of a manufactured home without the supervision of a certified manufactured home installer.

On-site work and equipment installation work shall not be performed until a permit for such work has been issued by the local enforcement agency. On-site work and equipment installation work must be inspected upon completion by the local enforcement agency in the same manner initial home installations are inspected.

On-site work and equipment installation work include, but are not limited to:

(1) Releveling a home such as installing all new pier blocks or footings;

(2) Complete skirting replacement;

(3) Installing earthquake resistant bracing systems; and

(4) Any other work described in RCW 43.22A.010(6).

On-site work and equipment installation work does not include routine maintenance or other routine repairs such as periodic adjustments to piers, replacement of a damaged pier, or skirting repair.

NEW SECTION

WAC 296-150I-0110 Manufactured home installation, on-site work or equipment installation—Homeowner performing work on their own home—Exceptions.

(1) The owner of a mobile or manufactured home may install or perform on-site work or equipment installation work on his or her own home without obtaining certification from the department as a certified manufactured home installer if the home is intended for use as the homeowner's primary residence.

(2) The installation, on-site work or equipment installation work must be performed in compliance with this chapter, Washington installation code.

(3) If the owner of a manufactured home hires any individual or business to assist the owner in the installation, on-site work, or equipment installation work, a certified installer is required to be on-site supervising such work and must meet all the requirements of this chapter.

(4) For the purposes of this chapter, an "owner" of a manufactured home does not include a manufactured home dealer, distributor, park owner or manager, contractor, or developer who installs or performs on-site work or equipment installation work on a manufactured home intended for resale or rental.

NEW SECTION

WAC 296-150I-0120 Manufactured home installation permit and inspections—Obligation of certified installer. If a certified installer obtains the manufactured home installation or placement permit from the local enforcement agency, the certified installer shall ensure that all required installation inspections, relative to the work performed by the certified installer, are completed.

Installer certification requirements do not eliminate any requirements of chapter 18.27 RCW to become a registered contractor.

NEW SECTION

WAC 296-150I-0130 Manufactured home installer—Responsibilities to the consumer. A certified manufactured home installer shall:

- (1) Ensure all phases of the installation work performed by the installer or crew being supervised are complete and in compliance with this chapter, Washington installation code;
- (2) Notify the local enforcement agency upon completion of the installation work; and
- (3) Correct all nonconforming aspects of the installation identified by the local enforcement agency or by an authorized representative of the department within thirty days of issuance of notice of the same.

NEW SECTION

WAC 296-150I-0140 Manufactured home installation—Installer certification tags required. Prior to installing, performing on-site work or equipment installation work on a manufactured home, certified manufactured home installers or the retailers by whom they are employed must obtain an "installer certification tag" from the department or from the local enforcement agency who participates in tag sales. The installer certification tag shall be in the form approved by the department. No manufactured home may be installed by a certified installer without an installer certification tag affixed thereto. Only currently certified manufactured home installers shall be issued installer certification tags.

Homeowners performing the installation, on-site work or equipment installation work on their own manufactured home are not required to acquire and affix an installer certification tag.

- (1) Installer certification tags may only be purchased by a certified manufactured home installer or by a manufactured home retailer licensed by Washington state department of licensing.
 - (a) The certified manufactured home installer or manufactured home retailer purchasing the installer certification tag is responsible for complying with the security, use, and reporting requirements of this chapter.
 - (b) Manufactured home retailers may purchase installer certification tags in bulk and issue them to certified manufactured home installers employed by the manufactured home retailer.

(2) In order to purchase installer certification tags, the certified manufactured home installer or manufactured home

retailer shall submit an application to the department or local enforcement agency on a form approved by the department. The application shall be accompanied by the appropriate installer certification tag fee as set forth in WAC 296-150I-3000.

(3) The department or manufactured home retailer may issue a maximum of thirty certification tags to a certified manufactured home installer. A certified manufactured home installer may not have more than thirty installer certification tags issued at any one time for which the reporting requirements of this section have not been met.

(4) Installer certification tags cannot be transferred or assigned without the written approval of the department. Fees paid for installer certification tags are not refundable.

(a) If a certified manufactured home installer's certification is suspended, revoked, or expires, all unused installer certification tags assigned to the certified manufactured home installer must be returned to the department.

(b) If a certified manufactured home installer or manufactured home retailer ceases to do business, all unused installer certification tags must be returned to the department.

(c) If a manufactured home retailer changes ownership, unused installer certification tags may be transferred to the new ownership if the department approves the transfer following receipt of a written request for transfer from the manufactured home retailer.

(5) Issuance of installer certification tags may be denied if:

(a) The certified manufactured home installer's certification has been revoked or suspended pursuant to chapter 43.22A RCW;

(b) The certified manufactured home installer has failed to comply with the reporting requirements of this chapter;

(c) The department has evidence that the certified manufactured home installer has misused the installer certification tag by not complying with the requirements of this chapter; or

(d) The certified manufactured home installer possesses installer certification tags in excess of the quantity authorized by subsection (3) of this section for which the reporting requirements of this chapter have not been met.

NEW SECTION

WAC 296-150I-0150 Installer certification tag—Issuance by local enforcement agency. A local enforcement agency may issue installer certification tags to certified manufactured home installers if:

(1) The local enforcement agency has entered into an agreement with the department to issue installer certification tags on a "per installation" basis;

(2) The local enforcement agency has verified that the certified installer is qualified to purchase an installer certification tag under the requirements of this chapter; and

(3) The local enforcement agency must file with the department a monthly report complying with the requirements of WAC 296-150I-0170.

NEW SECTION

WAC 296-150I-0160 Installer certification tag—Placement—Removal. (1) The installer certification tag

must be placed on the home upon completion of the installation and prior to inspection by the local enforcement agency.

(2) The installer certification tags must be placed on the end of a home section directly above or below the HUD certification tag or temporarily located in plain sight within three feet of the home's front entry.

(3) The local enforcement agency may not issue final approval of a home installation until one or more installer certification tags have been affixed to the home indicating all installation work was performed by a certified manufactured home installer.

EXCEPTION: Installation work performed by a homeowner on his or her own residence does not require an installer certification tag.

(4) The installer certification tag must be removed only by the owner of the home following final approval of the installation of the home by the local enforcement agency.

NEW SECTION

WAC 296-150I-0170 Monthly certification tag report. Certified manufactured home installers and manufactured home retailers who purchase installer certification tags from the department must submit a monthly report to the department on a form approved by the department relative to all installer certification tags issued.

(1) The report is due no later than the **15th day of each month** following the month of installation work being performed on a home. A certification tag report is not required for those months in which no installation work was performed.

(2) A manufactured home retailer who assigns tags to a certified manufactured home installer is responsible for ensuring completion of the monthly report. The manufactured home retailer must file a separate report for each certified manufactured home installer to whom the manufactured home retailer assigned installer certification tag(s).

(3) The installer certification tag report must contain the following information for each installation:

- (a) The installer certification tag number;
- (b) The address of the installation;
- (c) The date of the installation;
- (d) The name and certification number of the certified manufactured home installer; and
- (e) Any other information required by the department.

NEW SECTION

WAC 296-150I-0180 Alternative education providers—Approval process and compliance. Pursuant to RCW 43.22A.060, the department may approve education providers to offer the certification training and/or continuing education required by RCW 43.22A.050, 43.22A.070 and this chapter. The factory assembled structures board will review each installer training course and will recommend approval or disapproval of the course to the department. The department will either approve or disapprove the course.

(1) To be considered for approval, an installer certification course must:

- Consist of not less than twelve hours of instruction for new applicants;

- Consist of not less than four hours for continuing education; and

- Be open to monitoring by a representative of the department.

If the department determines that the continuing education course does not meet or exceed the minimum requirements for approval, the department may deny the course approval or reduce the number of credited hours.

(2) The education provider must submit to the department a written proposal including the following:

- (a) The education and experience of proposed instructors;

- (b) A detailed description of course content and materials; and

- (c) The proposed course schedule.

(3) All instructors identified by the education providers must meet the following requirements:

- (a) Two years' experience in one or more of the following areas:

- (i) Supervising manufactured home installation, service, or repair;

- (ii) Design, engineering, or architectural work related to building construction;

- (iii) Inspecting manufactured home installation or construction for a local, state, or federal agency;

- (iv) Completion of a two-year educational program in a construction-related field; or

- (v) A combination of any of the above to meet the two-year requirement; and

- (b) Complete the department-sponsored training and pass the certification exam with a score of ninety percent or higher.

(4) The curriculum proposed by the education provider must meet or exceed the department-sponsored training curriculum.

(5) The department must provide the education service provider written notice of approval or rejection as an alternative education service provider within sixty days of submittal of the complete proposal.

(6) All approved alternative education providers must:

- (a) Make all necessary arrangements (scheduling class dates/times and facilities) and provide all educational materials for the classes presented;

- (b) Provide to the department a list of participants within ten days of each class;

- (c) Provide to the participant a certificate of completion. Each certificate must indicate:

- (i) The name of participant;

- (ii) The date of training;

- (iii) A statement indicating the participant has completed the training as required by chapter 43.22A RCW.

(7) The alternative education provider must notify the department in writing fourteen days prior to the scheduled class date of the date, time and location of each class. Department representatives must be permitted to audit any class without fee.

(8) Curriculum changes must be submitted to and approved by the department prior to implementation.

(9) If the application is not approved, the rejection notice will include an explanation of the reason(s) for rejection. If

the course sponsor disagrees with the board's decision, the course sponsor may request a reconsideration hearing by the full factory assembled structures advisory board. A request to appeal course rejection must be received by the department forty-five days before a regularly scheduled board meeting.

The course sponsor must submit, to the department, any additional information to be considered during the hearing, in writing, at least thirty days before the board hearing.

The course sponsor must provide at least twenty copies of any written information to be submitted to the board.

NEW SECTION

WAC 296-1501-0190 Legal action—Installer certification required. No person may file a lien against a homeowner, or bring or maintain in any court of this state a suit or action, that seeks compensation for the performance of any work requiring certification under chapter 43.22A RCW or for the breach of any contract for installation work which is subject to chapter 43.22A RCW unless:

(1) The manufactured home installer was certified under chapter 43.22A RCW at the time the installer entered into contract for performance of the work and was certified continuously while performing the work for which compensation is sought; or

(2) The supervising manufactured home installer was the employee of the contractor or retailer seeking compensation and was certified under chapter 43.22A RCW continuously during performance of the work for which compensation is sought.

NEW SECTION

WAC 296-1501-0200 How does the department ensure compliance with the requirements of chapter 43.22A RCW? The department of labor and industries will ensure installers comply with the requirements of RCW 43.22A.130 which requires a certified manufactured/mobile home installer to be present for each phase of the installation being performed by all members of the installation crew by:

- (1) Random site inspections; and
- (2) Audit of installers certification tag reports.

The certified installer must enter their Washington installer number (WAINS) on the installer tag for each element they are supervising.

NEW SECTION

WAC 296-1501-0210 What violations of RCW 43.22A.130 can result in the issuance of a notice of infraction? (1) Under RCW 43.22A.130, the department can issue a notice of infraction to a person, contractor, manufacturer/mobile home dealer, manufacturer, or home dealer's agent for:

- (a) Failure to have a certified installer on the installation site whenever installation work is being performed;
- (b) Failure to correct all nonconforming aspects of the installation identified by the local enforcement agency or by an authorized representative of the department within thirty days of issuance of notice of the same;

(c) Failure by a certified installer to affix a certification tag to an installed manufactured/mobile home;

(d) Transfer of certification tag(s) from a certified installer to another certified installer without prior written approval of the department;

(e) Transfer of certification tag(s) from a certified installer to a noncertified installer;

(f) Transfer of unused installer certification tags by a manufactured home retailer to a new ownership without prior written approval of the department.

(2) Each worksite and day at which a violation occurs constitutes a separate infraction.

(3) See WAC 296-1501-3000 for the specific monetary penalties associated with each of the violations discussed in this section.

NEW SECTION

WAC 296-1501-0220 What information must be included in a notice of infraction? When an installer violates chapter 43.22A RCW, the department may issue a notice of infraction which must contain the following:

(1) The department shall prescribe the form of the notice of infraction issued under this chapter.

(2) The notice of infraction must include the following:

(a) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;

(b) A statement that the infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement of a monetary penalty that has been established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that, at a hearing to contest the determination, the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed, and that the person may subpoena witnesses including the authorized representative who issued and served the notice of the infraction; and

(g) A statement that failure to respond to a notice of infraction is a misdemeanor and may be punished by a fine or imprisonment in jail.

NEW SECTION

WAC 296-1501-0230 Who can be issued a notice of infraction? A person, firm, contractor, partnership, or corporation may be issued a notice of infraction for violations of chapter 43.22A RCW and this chapter.

The department must send the written notice, by certified mail, of civil penalties imposed under chapter 43.22A RCW and this chapter to the last known address of the party named in the notice.

NEW SECTION

WAC 296-150I-0240 How does a person, firm, contractor, partnership, corporation or certified installer appeal a notice of infraction? (1) File two copies of an appeal notice, specifying the reasons for the appeal, at the office designated on the notice of infraction; and

(2) File the appeal notice within twenty days of the date the infraction is mailed.

NEW SECTION

WAC 296-150I-0250 Who presides over an appeal hearing and where is it held? An administrative law judge from the office of administrative hearings will preside over the hearing and give a decision. The hearing shall be conducted in the county where the infraction occurred. However, both the appellant and the department have a right to ask the administrative law judge to change the hearing's location.

NEW SECTION

WAC 296-150I-0260 Who will represent the appellant and the department at the appeal hearings? Appellants may either represent themselves or be represented by an attorney. The department will be represented by the office of the attorney general.

NEW SECTION

WAC 296-150I-0270 How is the appeal hearing conducted? The hearing process shall be conducted according to chapter 34.05 RCW, Administrative Procedure Act and chapter 10-08 WAC. All appeals of the hearing decision shall be to the superior court according to chapter 34.05 RCW.

NEW SECTION

WAC 296-150I-0280 What does the department do with the appeal notices that they receive? (1) Appeal notices that are received timely are first reviewed by the department for purposes of reconsideration.

(2) Appeal notices that are not received timely will be returned to the appellant with appeal rights stated.

(3) Appeal notices that are received timely and are not reconsidered according to subsection (1) of this section are recorded and forwarded to the office of the attorney general, then to the office of administrative hearings.

NEW SECTION

WAC 296-150I-0290 When must a person, contractor, manufactured/mobile home dealer, manufacturer, or home dealer's or manufacturer's agent pay assessed monetary penalties? (1) If a person, contractor, manufactured/mobile home dealer, manufacturer, or home dealer's or manufacturer's agent named in a notice of infraction does not choose to appeal the notice, then the person, contractor, manufactured/mobile home dealer, manufacturer, or home dealer's or manufacturer's agent must pay the department the amount of the penalty prescribed for the infraction.

(2) After an administrative law judge decides that an infraction has been committed, a person, contractor, manufactured/mobile home dealer, manufacturer, or home dealer's or manufacturer's agent who does not appeal the decision to a superior court has thirty days to pay any outstanding monetary penalties.

NEW SECTION

WAC 296-150I-0300 Who establishes standards for installation of manufactured homes? (1) The director of labor and industries is responsible for establishing uniform installation standards where possible and practical for persons or entities engaged in performing the installation of manufactured homes within the state.

(2) Local jurisdictions may adopt additional installation requirements only for those installation situations not covered by federal standards. For example, local jurisdictions may impose noise control construction ordinances, prescribe the frost depth and soil bearing capacity at the installation site, and adopt requirements to protect manufactured homes in hazardous areas (see WAC 296-150I-0310).

Also, local jurisdictions may impose their requirements for snow loads as long as all structures within their jurisdiction are required to comply with the same standard and provided those installing the manufactured home are given options in satisfying that standard. Such an option might include, but not be limited to, allowing an installer to erect an additional structure, which meets local standards, and protects the manufactured home. For example, an installer could erect a free standing ramada over a manufactured home to protect it from local snow loads.

Local jurisdictions **may not**:

(a) Dictate foundation design and construction which is built according to either the manufacturer's installation instructions or a design created by an engineer or architect licensed in Washington state.

(b) Impose regulations on smoke detectors because they are regulated by federal standards.

NEW SECTION

WAC 296-150I-0310 What instructions are used for a manufactured home installation? To the extent that the installation of a manufactured home is not covered by a manufacturer's, engineer's, or architect's instructions, the manufactured home shall comply with the installation requirements of this section.

(1) Installation of a new manufactured home.

(a) The initial manufactured home installation must be conducted according to the manufacturer's instructions.

(b) If the manufacturer's instructions do not address an aspect of the installation, you may request:

(i) Specific instructions from the manufacturer; or

(ii) Specific instructions from a professional engineer or architect licensed in Washington state.

For example:

- A manufactured home is installed over a basement and the manufacturer's instructions do not address this application;

- A manufactured home is installed on a site where the specific soil bearing capacity is not addressed in the manufacturer's instructions.

(c) All manufactured homes installed in Washington state must be permanently anchored except for those installed on dealer lots. On dealer lots, temporary sets are permitted without anchoring being installed. A manufactured home must be anchored according to the manufacturer's installation instructions or according to the design of a professional engineer or architect licensed in Washington state. Local jurisdictions **may not** prescribe anchoring methods.

(d) A manufactured home must have a skirting around its entire perimeter. It must be installed per the manufacturer's installation instructions or if the manufacturer is not specific, to the standards in this section. It must be vented and allow access to the under floor area per the manufacturer's installation instructions or per the standards below if the manufacturer's instructions are not available.

If the manufacturer's skirting and access instructions are not specific, skirting, ventilation and access shall be installed as follows:

(i) Skirting:

- Must be made of materials suitable for ground contact.
- Metal fasteners must be made of galvanized, stainless steel or other corrosion-resistant material.
- Ferrous metal members in contact with the earth, except those made of galvanized or stainless steel, must be coated with an asphaltic emulsion.
- Must not trap water between the skirting and siding or trim.
- Must be recessed behind the siding or trim.

(ii) Ventilation:

For homes sited in a flood plain, contact the local jurisdiction regarding proper skirting ventilation. Except for those manufactured homes sited in a flood plain, all skirting and vent openings must:

- Be covered with corrosion-resistant wire mesh to prevent the entrance of rodents. The size of the mesh opening cannot exceed 1/4 inch.
- Have a net area of not less than one square foot for each one hundred fifty square feet of under floor area.
- Be located as close to corners and as high as practical and they must provide cross ventilation on at least two opposite sides.

(iii) Access:

- The under floor area of a manufactured home must have a finished opening at least eighteen inches by twenty-four inches in size.
- Opening must be located so that all areas under a manufactured home are available for inspection.
- Opening must be covered and that cover must be made of metal, pressure treated wood or vinyl.

(e) A manufactured home site must be prepared per the manufacturer's installation manual or per ANSI A225.1, 1994 edition, section 3.

(f) Heat duct crossovers must be installed per the manufacturer's installation instruction manual or per ANSI A225.1 or the following instructions if the manufacturer's instructions are not available:

Heat duct crossovers must be supported at least one inch above the ground by strapping or blocking. They must be installed to avoid standing water. Also, they must be installed to prevent compression, sharp bends, and to minimize stress at the connections.

(g) Dryer vents must exhaust to the exterior side of the wall or skirting. Dryer ducts outside the manufactured home shall comply with the dryer manufacturer's specifications or shall be made of metal with smooth interior surfaces.

(h) Hot water tank pressure relief lines must exhaust to the exterior side of the exterior wall or skirting and must exhaust downward. The end of the pipe must be at least six inches but not more than two feet above the ground.

(i) Water piping must be protected against freezing as per the manufacturer's installation instructions or by use of a heat tape listed for use with manufactured homes and installed per the heat tape manufacturer's installation instructions.

(j) The testing of water lines, waste lines, gas lines, and electrical systems must be as per the manufacturer's installation instructions. If the manufacturer's installation instructions require testing of any of these systems, the local jurisdiction is responsible for verifying that the tests have been performed and passed. Electrical connections and testing are the responsibility of the electrical section of labor and industries except where a city has assumed the electrical inspection responsibilities for their jurisdiction. In that case, the city's electrical inspectors are responsible for the electrical connections and testing.

(k) During the installation process, a ground cover must be installed under all manufactured homes. The ground cover must be a minimum of six-mil **black** polyethylene sheeting or its equivalent (exception to ANSI A225.1 (3.5.2)). The ground cover may be omitted if the under floor area of the home has a concrete slab floor with a minimum thickness of three and one-half inches.

(l) Clearances underneath manufactured homes must be maintained at a minimum of eighteen inches beneath at least seventy-five percent of the lowest member of the main frame (I-beam or channel beam) and the ground or footing. No more than twenty-five percent of the lowest member of the main frame of the home shall be less than eighteen inches above the ground or footing. In no case shall clearance be less than twelve inches anywhere under the home (exception to ANSI A225.1 (4.1.3.3)).

(m) Heat pump and air conditioning condensation lines must be extended to the exterior of the manufactured home.

(2) Installation of a relocated manufactured (mobile) home.

(a) A relocated manufactured home installation should be conducted according to the manufacturer's installation instructions.

(b) If the manufacturer's instructions are unavailable, you may use either:

(i) The American National Standard Institute (ANSI) standard ANSI A225.1 - Manufactured Homes Installation, 1994 edition instructions; or

(ii) The instructions of a professional engineer or architect licensed in Washington state.

(c) If either (b)(i) or (ii) of this subsection is used, all of the requirements of subsection (1)(c) through (m) of this section must also be followed.

NEW SECTION

WAC 296-1501-0320 How may I obtain a copy of the American National Standards Institute (ANSI) A225.1 - Manufactured Homes Installation? Contact the department at 1-800-647-0982.

NEW SECTION

WAC 296-1501-0330 What are the requirements for temporary placement of manufactured (mobile) homes? Manufactured (mobile) homes placed on temporary display or in storage by a manufacturer, dealer or distributor in excess of thirty days shall be:

(1) Supported under each main frame beam by supports located within two feet of each end and within four feet of the front and rear axle and other supports so that no span shall exceed sixteen feet; and

(2) Made weather tight at any marriage line joint at the roof and wall lines.

NEW SECTION

WAC 296-1501-0340 Do local enforcement agencies have special requirements for installing manufactured homes in hazardous areas? (1) Local enforcement agencies may have special installation requirements for manufactured homes installed in hazardous areas.

(2) A hazardous area is:

(a) An area recognized as a flood plain by the local jurisdiction; or

(b) An area considered hazardous due to the probability of earthquake. In such areas, local jurisdictions may require an earthquake resistant bracing system designed for the earthquake zone in which the home is located by the home manufacturer or by a registered professional engineer or architect.

NEW SECTION

WAC 296-1501-0350 Who may install a manufactured home? (1) A manufactured home may be installed by:

- A homeowner;
- A certified installer;
- An individual who is supervised by an on-site certified installer; or
- A specialty trades person, for certain aspects of installation.

(2) A certified installer must be a registered contractor, an employee of a registered contractor, or an employee of a registered dealership. (See chapter 43.22A RCW for details about which aspects of installation require the presence of a certified installer.)

NEW SECTION

WAC 296-1501-0360 Does a person who installs a manufactured home need an installation permit? (1) A

dealer, owner or agent must not deliver a manufactured home to its site without verifying that an installation permit has been obtained; and

(2) Any permit fees set by the local enforcement agency must be paid in full and included with the permit application.

NEW SECTION

WAC 296-1501-0370 Does a manufactured home installation require an inspection? All manufactured home installations must be inspected and approved by the local enforcement agency.

NEW SECTION

WAC 296-1501-0380 How does the local enforcement agency gain access to the manufacturer's installation instructions? A manufacturer's installation manual must be provided for the inspecting jurisdiction whenever any portions of the manufacturer's installation instructions have been used for any portion of the installation.

(1) The installation instructions must be located between the I-beam and the bottom board within five feet of the main electrical feeder when the skirting has not been installed.

(2) When the skirting has been installed, the installation instructions shall be located between the I-beam and the bottom board within five feet of the access opening.

(3) Instructions must be returned to such location when the inspection is completed.

NEW SECTION

WAC 296-1501-0390 What are the requirements for on-site structures and who regulates them? On-site structures, sometimes referred to as auxiliary structures, such as, but not limited to, carports, decks, and steps should be self-supporting.

(1) Local enforcement agency jurisdiction.

(a) On-site self-supporting structures that do not use any of the systems in the manufactured home are inspected by the local enforcement agency and they should be contacted for specific on-site structure requirements.

(b) Awnings and carports that are self-supported by a beam next to a manufactured (mobile) home are inspected by the local enforcement agency.

Note: The awning or carport may be flashed to the manufactured (mobile) home.

(2) Department of labor and industries jurisdiction.

(a) On-site structures that are not self-supporting or use one or more of the systems of the manufactured home require an inspection by the department and by the local enforcement agency.

(b) Awnings and carports that are attached to the manufactured (mobile) home without the benefit of a self-supported beam require approval and inspection by the department.

Note: This attachment must be designed and approved by an engineer or an architect licensed in Washington state. Furthermore, these stamped plans must be submitted to the department and approved before an inspection can be conducted.

(c) Attached garages:

(i) If the manufactured (mobile) home is built "garage ready" (one hour fire wall, dormer, etc.) at the factory and is installed by the manufacturer, an alteration inspection may not be required.

(ii) If the manufactured (mobile) home is not built "garage ready" at the factory, an alteration inspection is required for all changes made to it.

NEW SECTION

WAC 296-150I-0400 What happens if a dispute arises concerning an installation requirement? (1) If a dispute arises between any person, business, or local enforcement agency concerning an installation requirement of ANSI A225.1 or this chapter, the issue may be submitted to the factory assembled structures advisory (FAS) board.

(2) The board may provide an opinion on the requirement.

NEW SECTION

WAC 296-150I-0410 What are the requirements if a home is damaged during transit or during set-up? (1) Manufactured and mobile homes that are structurally damaged during transportation or when being set up on a new or secondary set-up and are repaired at a location other than the manufacturer's facility shall require a permit with labor and industries.

The repair and inspection shall be performed to either:

(a) Plans approved by the manufacturer's design approval primary inspection agency; or

(b) Plans approved by an engineer or architect licensed in Washington and have the plans approved by the FAS plan review section;

(2) An alteration insignia shall be placed upon the home after the repair has been approved.

(3) Electrical and plumbing alterations to the damaged manufactured/mobile home shall be performed by a Washington state licensed electrician and/or plumber.

EXCEPTIONS: Damaged home is taken back to the factory. Minor damage such as shingles, broken window(s), paint damage, minor siding damage, torn bottom paper etc., would not require a permit.

NEW SECTION

WAC 296-150I-3000 Penalties, fees, and refunds. Monetary penalties for an infraction shall be assessed for each violation of chapter 43.22A RCW in the amount of \$1,000.00.

The following fees are payable to the department in advance:

| | |
|--|----------|
| Training and certification | \$200.00 |
| Training only 8 hours | \$100.00 |
| Manufactured/mobile home installation inspector training | \$100.00 |
| Late application | \$20.00 |
| Refund | \$20.00 |

| | |
|--|----------|
| Certification renewal | \$100.00 |
| Continuing education class | \$40.00 |
| Retake failed examination and training: | |
| First retake | \$0.00 |
| Subsequent retakes | \$30.00 |
| Manufactured home installer certification manual | \$10.00 |
| Installer certification tag | \$7.00 |

(1) The department shall refund fees paid for training and certification or certification renewal as a manufactured home installer if the application is denied for failure of the applicant to comply with the requirements of chapter 43.22A RCW or these rules.

(2) If an applicant has paid fees to attend training or to take an examination and is unable to attend the scheduled training or examination, the applicant may:

(a) Change to another scheduled training and examination; or

(b) Request a refund.

(3) An applicant who fails the examination shall not be entitled to a refund.

**WSR 08-12-041
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed May 30, 2008, 12:46 p.m., effective June 30, 2008]

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

Purpose: The purpose of this rule making is to amend the manufactured home rules to make sure they are consistent with the statute. The amendment which amends "notice of infraction" to "notice of correction." This will correct the terminology in the rule for consistency between the statute and rules. The factory assembled structure program has already filed an expedited rule-making package to correct terminology in WAC 296-150M-0815.

Additional housekeeping and clarifying changes will be made throughout the rule.

Citation of Existing Rules Affected by this Order: Amending WAC 296-150M-0020 What definitions apply to this chapter?, 296-150M-0300 What approval do I need to alter a manufactured home?, 296-150M-0306 What codes are used when altering a manufactured/mobile home?, 296-150M-0410 What are the requirements for altering mobile/manufactured homes?, 296-150M-0805 How does the department ensure that a contractor, firm, partnership, or corporation complies with the requirements of chapter 43.22 RCW?, 296-150M-0810 What violations of chapter 43.22 RCW can result in the issuance of a notice of infraction?, and 296-150M-0820 Who can be issued a notice of infraction?

Statutory Authority for Adoption: Chapter 43.22 RCW.

Adopted under notice filed as WSR 08-08-096 on April 1, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 7, Repealed 0.

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

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

Date Adopted: May 30, 2008.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 5/30/03)

WAC 296-150M-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, planning considerations, fire safety, or the plumbing, mechanical, and electrical systems of a manufactured home. The installation of whole-house water treatment equipment that requires cutting into the existing plumbing is considered an alteration and requires a permit, an inspection and an alteration insignia.

"Alteration insignia" is an insignia issued by the department of labor and industries to verify that an alteration to a manufactured home meets the requirements of federal law 24 CFR 3280 and this chapter.

"Anchoring system" is the means used to secure a mobile home to ground anchors or to other approved fastening devices. It may include straps, cables, turnbuckles, bolts, fasteners, and other components.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to manufactured homes, ANSI A225.1 Manufactured Homes Installation, 1994 edition, except section 3.5.2 - Ground Cover and section 4.1.3.3 - Clearance.

"Authority having jurisdiction" means that either the department of labor and industries or the local jurisdiction is responsible for establishing specific manufactured home standards. The authority for specific manufactured home standards is divided as follows:

- The department of labor and industries establishes standards for manufactured home installation and alterations and performs alteration inspections;
- The local jurisdiction establishes standards for manufactured homes governing the building site and performs installation inspections.

"Building site" is a tract, parcel, or subdivision of land on which a manufactured home is installed.

"DAPIA" is a Design Approval Primary Inspection Agency as approved by the United States Department of Housing and Urban Development.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

"Design plan" is a design submitted to the department for approval of a manufactured home structural alteration. This also includes other types of work and installations (plumbing, electrical, etc.) that are incidental to the structural alteration.

"Equipment" means the appliances used in the alteration or installation of a manufactured home.

Examples of appliances that require an alteration inspection include:

- Furnace;
- Water heater;
- Air conditioner; and
- Heat pump.

Examples of appliances that do not require an alteration inspection include:

- Microwave oven;
- Washer;
- Dryer; and
- Dishwasher and range that are connected to their source of power by a plug-in cord.

"Equivalent air conditioning/heat pump components" is equipment that performs the same function and is compatible with the equipment of another manufacturer, sometimes referred to as mix and match.

"Footing" is the portion of a support system that transmits loads from the manufactured home to the ground.

"Foundation skirting" or "skirting" is the material that surrounds and encloses the space under the manufactured home.

"Homeowner" is an individual who owns a manufactured home. Dealers, distributors, and developers are not regarded as homeowners.

"HUD" is the United States Department of Housing and Urban Development with headquarters located in Washington, D.C.

"Indigent" means a person receiving an annual income, after taxes, of one hundred twenty-five percent or less of the most recently published federal poverty level.

"Installation" is the activity needed to prepare a building site and to set a manufactured home within that site. Site means a tract, parcel, or subdivision of land including a mobile home park.

"Installed manufactured or mobile home" is a manufactured or mobile home that has been placed on either private property or in a park and has been installed for occupancy. Installation includes the approval of the blocking of the home, and the connection of the home to all of the utilities, including water, sewer and electrical.

"IPIA" is a manufactured home production Inspection Primary Inspection Agency approved by the United States Department of Housing and Urban Development. The department of labor and industries is the IPIA for Washington state.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations

governing the building site and installation of a manufactured home.

"Manufactured home" is a single-family dwelling built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, which is a national, preemptive building code. A manufactured home also:

- Includes plumbing, heating, air conditioning, and electrical systems;
- Is built on a permanent chassis; and
- Can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported; or when installed on the site is three hundred twenty square feet or greater (see RCW 46.04.302).

Note: Total square feet is based on exterior dimensions measured after installation using the longest horizontal projections. Dimensions may not include bay windows but may include projections containing interior space such as cabinets and expandable rooms.

Exception: A structure that meets the requirements of a manufactured home as set out in 24 CFR 3282.7(u), except the size requirements is considered a manufactured home, if the manufacturer files with the secretary of HUD a certificate noted in CFR 3282.13.

"Mobile home" is a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD Code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the HUD Manufactured Home Construction and Safety Standards Act. For the purposes of this chapter references to manufactured homes include mobile homes.

"Park site" is the installation location of a manufactured home within a residential area for manufactured homes.

"Repair" is to restore an item to sound condition, to fix.

"Replacement" is the act or process of replacing, to substitute.

"SAA" the department of labor and industries shall perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing including the preparation and submission of the state administrative plan.

"Structural alteration-custom design" is a design that can only be used once.

"Structural alteration-master design" is a design plan that can be used more than once. The master plan expires when there is a code change applicable to the design.

"System" is part of a manufactured home designed to serve a particular function such as structural, plumbing, mechanical, or electrical functions.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150M-0300 What approval do I need to alter a manufactured home? If you alter a manufactured home in Washington state, you must (~~obtain our approval~~) purchase permits prior to making an alteration. This includes:

(1) Alterations made by (~~an owner, or~~) a contractor working for a homeowner; (and)

(2) Alterations made by a homeowner to their own home; and

(3) Alterations made by a dealer after a manufactured home is sold.

Note: The homeowner can't purchase a permit on behalf of the contractor.

AMENDATORY SECTION (Amending WSR 07-05-063, filed 2/20/07, effective 4/1/07)

WAC 296-150M-0306 What codes are used when altering a manufactured/mobile home? Alterations to a manufactured/mobile home must be in compliance with the Manufactured Home Construction and Safety Standards, 24 CFR Part 3280, as adopted by the Secretary for the Department of Housing and Urban Development (HUD) and the amendments to that federal standard adopted in this WAC chapter. The department will accept the following provisions, which supersede the applicable requirements in 24 CFR Part 3280.

(1) Tested equivalent air conditioning/heat pump components that have been tested and listed for use with a particular furnace by a nationally recognized testing laboratory.

(2) Water heaters that are listed by a nationally recognized testing laboratory and installed per the manufacturer's installation instructions.

Note: For installation of electrical furnaces and/or water heater in pre-HUD homes, the requirement of 24 CFR Part 3280.203 for flame spread limitations is waived as long as the installation meets the requirement of the installed appliance for distance from combustibles.

(3) Pellet stoves for installation that have been listed by a department approved nationally recognized testing laboratory. For a current list of approved laboratories, contact any department field office or the department at the address shown in WAC 296-150M-0020.

(4) All electrical alterations and additions to the manufactured/mobile home shall comply with the current edition of the National Electrical Code.

Electrical disconnects must be secured to a manufactured/mobile structural member (not the skirting) and have a 30" x 30" clearance for maintenance.

(5) The International Residential Code for structural alterations.

Note: The replacement of exterior siding is an alteration and requires the approval of the department and an alteration insignia.

(6) The use of corrugated stainless steel tubing (CSST) is allowed when installed according to the manufactured installations instructions for mobile/manufactured homes by the following CSST manufacturers:

- (a) Gastite;
- (b) TracPipe;
- (c) Pro-Flex.

(7) Installation of gas room heaters in bedrooms must:

(a) Have direct vented (sealed combustion) and be listed as UL 307A for liquid fuel burning heater or ANSI Z21.88 and ANSI Z21.86 for vented gas fireplaces.

(b) Not be able to draw combustion air from the living space and must be designed so that it will become inoperative if any door, latch, or opening is not properly sealed.

(c) Have a smoke detector, listed to UL 217. The smoke detector can either be hardwired or battery powered and installed according to the manufacturer's installation requirements.

(d) Have a carbon dioxide (CO₂) detector, listed to UL 2034. The CO₂ detector must be installed according to the manufacturer's installation requirements.

(e) Have at least one means of egress.

AMENDATORY SECTION (Amending WSR 07-05-063, filed 2/20/07, effective 4/1/07)

WAC 296-150M-0410 What are the requirements for altering mobile/manufactured homes? (1) Roof over framing (dormer) additions to manufactured/mobile homes must meet the following requirements:

(a) Maintain a minimum twenty pound roof, live load, and provide documentation to the department.

(b) The dead load for the dormer must be the difference between the live load design of the roof and the roof design snow load of the manufactured/mobile home location (as per Snow Load Analysis for Washington, by Structural Engineers Association of Washington).

(c) Existing roofing material, other than the sheathing, must be completely removed under the dormer.

(d) An engineering analysis shall take into account the wind load on the structure, when the dormer extends above the original ridge line of the manufactured/mobile home.

(e) The engineer or architect of record must clarify in writing on the original stamped drawings that the design plans may be used on other manufactured/mobile homes of the same live load, for generic designs that are to be used more than one time.

(f) Submit all manufactured/mobile home alterations to the department to be reviewed by plan review for compliance.

(2) Reroofing of a manufactured/mobile home must be installed and vented according to the manufacturer's installation instructions.

(a) Existing asphalt roof will require removal of the original asphalt roofing material prior to the installation of new asphalt roofing.

(b) If the original asphalt roofing material is not removed and a second layer of asphalt roofing is added, an engineering analysis must be completed to ensure that the existing roof structure can support the additional load while maintaining a 20 psf live roof load.

(c) Metal roofing with or without insulation board applied after removing existing asphalt shingles must:

(i) Follow the roofing manufacturer's installation requirements.

(ii) Maintain minimum pitch of the roof as required by the roofing manufacturer's installation requirements.

(d) Metal roofing with or without insulation board over an existing metal roof must:

Allow the metal roof to be installed over another metal roof as required by the manufacturer's installation requirements.

(3) Replacing floor decking must meet the following requirements:

(a) Plan review is not required for the following:

(i) The floor decking being replaced is not (~~bigger~~) greater than forty-eight inches by ninety-six inches (~~(4)~~) of each section of home(~~9~~).

(ii) Two-by-six blocking is added to each floor joist and secured with 16d nails at six inches on center.

(iii) Two-by-six blocking is added at the ends of the cut such that one-half is under the existing decking and one-half is under the decking being replaced and is secured with 16d nails, two at each joint.

(iv) Adding floor decking that is the same thickness and grade as originally installed.

(v) Adding decking that is secured with construction adhesive bead and #8x1-3/4 inch screws at six inches on center.

(b) Plan review is required, but engineering will not be required under the following condition:

(i) The floor decking being replaced is greater than forty-eight inches by ninety-six inches.

(ii) The decking being replaced is no more than fifty percent of the floor length, each section of home.

(iii) The decking being replaced is no more than seventy-five percent of the floor width, each section of home.

(c) If the floor decking being replaced is (~~larger~~) greater than forty-eight inches by ninety-six inches (~~(3)~~) of each section of home both plan review and engineering will be required.

(d) On generic designs that are to be used more than once, an engineer or architect must clearly state in writing on the original stamped drawings that the design plans may be used on other manufactured/mobile homes of the same manufacturer.

(4) Additions (i.e., rooms, garages, carports, etc.) added to manufactured/mobile homes.

(a) Labor and industries factory assembled structures section is responsible for any alterations to the manufactured/mobile home. This includes:

(i) Any opening that is added or changed.

(ii) Electrical circuits added to the addition that come from the electrical panel in the manufactured/mobile home.

(iii) Using the manufactured/mobile home for support of the addition.

(b) A plan review is required when adding an addition to a manufactured/mobile home for:

(i) Openings not constructed per the department.

(ii) Manufactured/mobile homes which use the structure for support of the addition.

(iii) Adding a dormer on the home.

Note: An engineer or architect licensed in Washington state must design the plans and seal the plans and calculations. The department's FAS plan review section will perform a plan review.

(c) Labor and industries electrical section is responsible for any electrical circuits added to the manufactured/mobile home that come from the pedestal where the electrical section

has electrical inspection authority. Some cities have electrical inspection authority and would make those electrical inspections in their jurisdiction.

(d) Local jurisdiction (city or county) is responsible for the inspection of the addition except as noted above.

(e) Items to pay particular attention to:

(i) If the addition is being served by a required egress door:

- The lock must be removed and nonlocking passage hardware installed or the door may be removed entirely leaving a passageway.

- An exit door equal in size to the one removed must be installed in the addition.

(ii) If the addition is being served by a 3rd door and the other doors meet the egress requirements outlined above, no changes to the exterior door are required.

(iii) Electrical circuits run from the manufactured/mobile home electrical panel must:

- Be in conduit if routed under the home; and
- Terminate at the edge of the home in a junction box.

(iv) The addition may be flashed to the manufactured/mobile home for purposes of sealing the exterior joint and may have trim installed on the interior for finishing.

(5) Attaching awnings and carports and garages.

(a) Self-supporting awnings and carports.

When awnings and carports are self-supporting they may be flashed to the manufactured/mobile home and no permit is required from L&I FAS section. Please check with your local jurisdiction building department for any permits required by them.

(b) Awnings and carports using the home for support.

Aluminum or wood awnings and carports that use the manufactured/mobile home for support will need to:

- Have the connections to the home designed and the additional load on the home analyzed by an engineer or architect licensed in Washington state. The engineer or architect will need to seal these designs and calculations;

- The installer must submit the designs to the FAS plan review section for a review; and

- The installer must have the installation inspected, after the plans are approved.

(c) Manufactured home comes from factory garage ready.

If the manufactured home comes from the factory garage ready, no inspection is required by L&I. Garage ready from the factory means:

- Dormers, if required, are installed by the factory;
- All gypsum board required on the home has been installed at the factory;

- Any door between the home and the garage meets the requirements for separation of a residence from a garage as required by the building code;

- All electrical installations meet the requirements of the National Electrical Code for one hour walls;

- The dryer outlet termination has been designed at the factory to not exhaust into the garage; and

- No other changes are required to the manufactured home at the installation site.

Note: If any changes are required to the manufactured home at the installation site, an alteration permit is required from the department.

(d) Manufactured/mobile home is not garage ready.

If the manufactured/mobile home is not garage ready when it leaves the factory, an alteration permit is required. Engineering analysis and plan review may also be required if additional loads are placed upon the home or openings are made or changed.

The following are some examples of when a plan review would be required:

- A dormer is added;

- An opening in the home is made or changed (Note: Openings constructed to the department's approved details would not require a plan review); and

- Gypsum board is added to the wall of the home.

Items to also be aware of:

When a garage is to be attached to a manufactured/mobile home, the following must also be considered:

- The means of egress through exterior doors is not compromised (two are required);

- The means of egress from the bedroom(s) is not compromised (one egress directly to the exterior from each); and/or endwalls are usually shearwalls and any additional openings in them will need an engineering analysis and plan review to substantiate.

(6) Decertification of a manufactured/mobile home.

(a) Can only be decertified if the jurisdiction having authority will allow the unit to remain on the property.

(b) All electrical components, including the electrical panel, receptacles, switches and light must be removed and wires cut to where they enter the device.

(c) All plumbing fixtures and exposed plumbing water, drain and waste lines must be cut off where they enter any wall, floor or ceiling.

(d) All mechanical components including water heaters, furnaces, and kitchen appliances must be removed from the home.

AMENDATORY SECTION (Amending WSR 05-24-020, filed 11/29/05, effective 1/1/06)

WAC 296-150M-0805 How does the department ensure that a contractor, firm, partnership, or corporation complies with the requirements of chapter 43.22 RCW? The department of labor and industries ensures that contractors, firms, partnerships, and corporations comply with the requirements of chapter 43.22 RCW and this chapter which require ((~~the contractor or homeowner to purchase the appropriate permits and ((inspection by the department~~ ~~of~~)) the department will inspect all alterations to manufactured and mobile homes by:

(1) Inspecting manufactured and mobile home job sites by the department's compliance inspectors; or

(2) Auditing the records of contractors per WAC 296-150M-0715.

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 5/30/03)

WAC 296-150M-0810 What violations of chapter 43.22 RCW can result in the issuance of a notice of infraction? (1) Under chapter 43.22 RCW, the department can issue a notice of infraction to a ~~((contractor))~~ firm, partnership, or corporation for:

(a) Failure to obtain a permit before altering a manufactured or mobile home as required by chapter 296-150M WAC;

(b) Failure to correct violations noted as a result of an inspection requested as a result of having purchased a permit.

(2) Each worksite at which a violation occurs constitutes a separate infraction.

(3) Each day on which a violation occurs constitutes a separate infraction.

(4) See WAC 296-150M-0860 for the specific monetary penalties associated with each of the violations discussed in this section.

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 5/30/03)

WAC 296-150M-0820 Who can be issued a notice of infraction? A contractor, firm, partnership, or corporation may be issued a notice of infraction for violations of chapter 43.22 RCW and this chapter.

The department must by certified mail send the written notice of ~~((civil))~~ infraction penalties imposed under chapter 43.22 RCW and this chapter to the last known address of the party named in the notice.

WSR 08-12-042
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 30, 2008, 12:47 p.m., effective June 30, 2008]

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

Purpose: The purpose of this rule making is to increase fees 5.53%, which is the office of financial management's maximum allowable fiscal growth rate factor for fiscal year 2008. We evaluated the programs' budgets and projected revenue and determined fee increases are necessary to help cover the cost of ongoing services of the factory-assembled structures and plumber certification programs. The programs received legislative approval for the fee increase.

Citation of Existing Rules Affected by this Order: Amending WAC 296-150C-3000 Commercial coach fees, 296-150F-3000 Factory-built housing and commercial structure fees, 296-150M-3000 Manufactured/mobile home fees, 296-150T-3000 Factory-built temporary worker housing fees, 296-150V-3000 Conversion vendor units and medical units—Fees, and 296-400A-045 What fees will I have to pay?

Statutory Authority for Adoption: Chapters 18.106, 43.22 RCW, chapter 285, Laws of 2008 (EHB 3381), and chapter 329, Laws of 2008 (ESHB 2687).

Adopted under notice filed as WSR 08-09-123 on April 22, 2008.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: May 30, 2008.

Judy Schurke
 Director

AMENDATORY SECTION (Amending WSR 07-19-086, filed 9/18/07, effective 10/19/07)

WAC 296-150C-3000 Commercial coach fees.

| | |
|---|---------------------------------------|
| INITIAL FILING FEE | \$((34.30)) <u>36.10</u> |
| DESIGN PLAN FEES: | |
| INITIAL FEE - MASTER DESIGN | \$((236.70)) <u>249.70</u> |
| INITIAL FEE - ONE YEAR DESIGN | \$((96.80)) <u>102.10</u> |
| RENEWAL FEE | \$((40.90)) <u>43.10</u> |
| RESUBMIT FEE | \$((69.10)) <u>72.90</u> |
| ADDENDUM (Approval expires on same date as original plan) | \$((69.10)) <u>72.90</u> |
| ELECTRONIC PLAN SUBMITTAL FEE \$((5.00)) 5.20 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section. | |
| ELECTRICAL PLAN REVIEW (Plan review for educational, institutional or health care facilities and other buildings) | |
| Electrical Plan submission fee | \$((69.10)) <u>72.90</u> |

| | | |
|---|--|----------------------------|
| Service/feeder Ampacity: | | |
| 0 - 100 | | \$((30.60)) <u>32.20</u> |
| 101 - 200 | | \$((38.10)) <u>40.20</u> |
| 201 - 400 | | \$((71.60)) <u>75.50</u> |
| 401 - 600 | | \$((84.40)) <u>89.00</u> |
| 601 - 800 | | \$((108.80)) <u>114.80</u> |
| 801 - 1000 | | \$((133.20)) <u>140.50</u> |
| Over 1000 | | \$((144.60)) <u>152.50</u> |
| Over 600 volts surcharge | | \$((22.80)) <u>24.00</u> |
| Thermostats: | | |
| First | | \$((13.40)) <u>14.10</u> |
| Each additional | | \$((3.10)) <u>3.20</u> |
| Low voltage fire alarm and burglar alarm: | | |
| Each control panel and up to four circuits or zones | | \$((12.30)) <u>12.90</u> |
| Each additional circuit or zone | | \$((2.00)) <u>2.10</u> |
| Generators, refer to appropriate service/feeder ampacity fees | | |
| <i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i> | | |
| Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour* | | \$((81.80)) <u>86.30</u> |
| ELECTRICAL COMMERCIAL/INDUSTRIAL | | |
| Electrical Service/feeders 200 Amperage plus | | |
| Service/feeder | | \$((201.60)) <u>212.70</u> |
| Additional Feeder | | \$((38.20)) <u>40.30</u> |
| ELECTRICAL MULTIFAMILY RESIDENTIAL | | |
| Electrical Service/feeders 200 Amperage plus | | |
| Service/feeder | | \$((106.90)) <u>112.80</u> |
| Additional Feeder | | \$((27.20)) <u>28.70</u> |
| MEDICAL GAS PLAN REVIEW: | | |
| SUBMISSION FEE | | \$((66.20)) <u>69.80</u> |
| FIRST STATION | | \$((66.20)) <u>69.80</u> |
| EACH ADDITIONAL STATION | | \$((24.10)) <u>25.40</u> |
| RECIPROCAL PLAN REVIEW: | | |
| INITIAL FEE - MASTER DESIGN | | \$((105.50)) <u>111.30</u> |
| INITIAL FEE - ONE YEAR DESIGN | | \$((63.70)) <u>67.20</u> |
| RENEWAL FEE | | \$((63.70)) <u>67.20</u> |
| ADDENDUM | | \$((63.70)) <u>67.20</u> |
| PLANS APPROVED BY PROFESSIONALS | | \$((48.00)) <u>50.60</u> |
| APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS | | \$((12.90)) <u>13.60</u> |
| DEPARTMENT INSPECTION FEES | | |
| INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**) | | \$((69.10)) <u>72.90</u> |
| TRAVEL (Per hour) | | \$((69.10)) <u>72.90</u> |
| PER DIEM** | | |
| HOTEL*** | | |
| MILEAGE** | | |

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|--|---------------------|
| RENTAL CAR*** | |
| PARKING*** | |
| AIRFARE*** | |
| DEPARTMENT AUDIT FEES: | |
| AUDIT (Per hour*) | \$((69.10)) 72.90 |
| TRAVEL (Per hour*) | \$((69.10)) 72.90 |
| PER DIEM** | |
| HOTEL*** | |
| MILEAGE** | |
| RENTAL CAR*** | |
| PARKING*** | |
| AIRFARE*** | |
| ALTERATION INSPECTION (One hour plus insignia alteration fee) | \$((103.40)) 109.10 |
| INSIGNIA FEES: | |
| FIRST SECTION/ALTERATION | \$((20.80)) 21.90 |
| EACH ADDITIONAL SECTION | \$((12.90)) 13.60 |
| REISSUED-LOST/DAMAGED | \$((12.90)) 13.60 |
| OTHER FEES: | |
| FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**) | \$((69.10)) 72.90 |
| PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request) | \$((12.90)) 13.60 |
| * Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments | |
| ** Per state guidelines | |
| *** Actual charges incurred | |

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

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|--|---------------------|
| INITIAL FILING FEE | \$((60.80)) 64.10 |
| DESIGN PLAN FEES: | |
| INITIAL FEE - MASTER DESIGN (CODE CYCLE) | \$((300.50)) 317.10 |
| INITIAL FEE - ONE YEAR DESIGN | \$((176.00)) 185.70 |
| RENEWAL FEE | \$((60.80)) 64.10 |
| RESUBMIT FEE | \$((87.90)) 92.70 |
| ADDENDUM (Approval expires on same date as original plan.) | \$((87.90)) 92.70 |
| ELECTRONIC PLAN SUBMITTAL FEE \$((4.90)) 5.10 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section. | |
| ELECTRICAL PLAN REVIEW (Plan review for educational, institutional or health care facilities and other buildings): | |
| Electrical Plan submission fee | \$((66.90)) 70.50 |
| Service/feeder Ampacity: | |
| 0 - 100 | \$((29.60)) 31.20 |
| 101 - 200 | \$((37.00)) 39.00 |
| 201 - 400 | \$((69.30)) 73.10 |
| 401 - 600 | \$((81.80)) 86.30 |
| 601 - 800 | \$((105.50)) 111.30 |
| 801 - 1000 | \$((129.10)) 136.20 |
| Over 1000 | \$((140.00)) 147.70 |
| Over 600 volts surcharge | \$((22.10)) 23.30 |

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|--|----------------------------|
| Thermostats: | |
| First | \$((13.10)) <u>13.80</u> |
| Each additional | \$((3-10)) <u>3.20</u> |
| Low voltage fire alarm and burglar alarm: | |
| Each control panel and up to four circuits or zones | \$((11-90)) <u>12.50</u> |
| Each additional circuit or zone | \$((2-00)) <u>2.10</u> |
| Generators, refer to appropriate service/feeder ampacity fees | |
| <i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i> | |
| Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) will be charged per hour or fraction of an hour* | \$((79-20)) <u>83.50</u> |
| ELECTRICAL COMMERCIAL/INDUSTRIAL | |
| Electrical Service /feeders 200 Ampacity plus | |
| Service/feeder | \$((201-60)) <u>212.70</u> |
| Additional Feeder | \$((38-20)) <u>40.30</u> |
| ELECTRICAL MULTIFAMILY RESIDENTIAL | |
| Electrical Service/feeders 200 Ampacity plus | |
| Service/feeder | \$((106-90)) <u>112.80</u> |
| Additional Feeder | \$((27-20)) <u>28.70</u> |
| MEDICAL GAS PLAN REVIEW: | |
| SUBMISSION FEE | \$((83-50)) <u>88.10</u> |
| FIRST STATION | \$((83-50)) <u>88.10</u> |
| EACH ADDITIONAL STATION | \$((30-30)) <u>31.90</u> |
| RECIPROCAL PLAN REVIEW: | |
| INITIAL FEE-MASTER DESIGN | \$((134-30)) <u>141.70</u> |
| INITIAL FEE-ONE YEAR DESIGN | \$((81-20)) <u>85.60</u> |
| RENEWAL FEE | \$((81-20)) <u>85.60</u> |
| ADDENDUM | \$((81-20)) <u>85.60</u> |
| PLANS APPROVED BY DESIGN PROFESSIONALS | \$((60-80)) <u>64.10</u> |
| APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST THREE SETS | \$((45-70)) <u>16.50</u> |
| DEPARTMENT INSPECTION FEES | |
| INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**) | \$((77-80)) <u>82.10</u> |
| TRAVEL (Per hour*) | \$((77-80)) <u>82.10</u> |
| PER DIEM** | |
| HOTEL*** | |
| MILEAGE** | |
| RENTAL CAR*** | |
| PARKING*** | |
| AIRFARE*** | |
| DEPARTMENT AUDIT FEES: | |
| AUDIT (Per hour*) | \$((77-80)) <u>82.10</u> |
| TRAVEL (Per hour*) | \$((77-80)) <u>82.10</u> |
| PER DIEM** | |
| HOTEL*** | |
| MILEAGE** | |
| RENTAL CAR*** | |

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| PARKING*** | |
| AIRFARE*** | |
| INSIGNIA FEES: | |
| FIRST SECTION | \$((248.40)) 262.10 |
| EACH ADDITIONAL SECTION | \$((22.40)) 23.60 |
| REISSUED-LOST/DAMAGED | \$((60.80)) 64.10 |
| OTHER FEES: | |
| FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**) | \$((77.80)) 82.10 |
| NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA) | \$((33.70)) 35.50 |
| PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request) | \$((12.60)) 13.20 |
| * Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments. | |
| ** Per state guidelines. | |
| *** Actual charges incurred. | |

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-150M-3000 Manufactured/mobile home fees.

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|--|---------------------|
| INITIAL FILING FEE | \$((33.20)) 35.00 |
| DESIGN PLAN FEES: | |
| STRUCTURAL ALTERATION - MASTER DESIGN (CODE CYCLE) | \$((134.40)) 141.80 |
| STRUCTURAL ALTERATION - ONE YEAR DESIGN | \$((90.10)) 95.00 |
| RENEWAL FEE | \$((40.10)) 42.30 |
| RESUBMITTAL FEE | \$((66.90)) 70.50 |
| ADDENDUM (Approval expires on the same date as original plan.) | \$((66.90)) 70.50 |
| ELECTRONIC PLAN SUBMITTAL FEE \$((5.00)) 5.10 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section. | |
| DEPARTMENT INSPECTION FEES: | |
| INSPECTION | |
| MECHANICAL | |
| Heat Pump | \$((32.80)) 34.60 |
| Combination Heat Pump (new) and Furnace (replacement) | \$((43.80)) 46.20 |
| Air Conditioning | \$((32.80)) 34.60 |
| Combination Air Conditioning (new) and Furnace (replacement) | \$((43.80)) 46.20 |
| Furnace Installation (gas*** or electric) | \$((32.80)) 34.60 |
| Gas*** Piping | \$((32.80)) 34.60 |
| Wood Stove | \$((32.80)) 34.60 |
| Pellet Stove | \$((32.80)) 34.60 |
| Gas*** Room Heater | \$((32.80)) 34.60 |
| Gas*** Decorative Appliance | \$((32.80)) 34.60 |
| Range: Changing from electric to gas*** | \$((32.80)) 34.60 |
| Gas*** Water Heater Replacement | \$((21.90)) 23.10 |
| Water Heater: Changing from electric to gas*** | \$((21.90)) 23.10 |
| Any combination of Furnace, Range, and Water Heater changing from electric to gas*** and includes Gas Piping charge | \$((65.80)) 69.20 |
| ELECTRICAL | |
| Heat Pump | \$((43.80)) 46.20 |
| Heat Pump (when home is prewired for a heat pump) | \$((10.90)) 11.50 |
| Combination Heat Pump (new) and Furnace (replacement) | \$((54.80)) 57.80 |
| Air Conditioner | \$((43.80)) 46.20 |
| Air Conditioner (when home is prewired for an air conditioner) | \$((10.90)) 11.50 |
| Combination Air Conditioner (new) and Furnace (replacement) | \$((54.80)) 57.80 |

| | |
|--|------------------------------------|
| Furnace Installation (gas or electric) | \$(43.80) <u>46.20</u> |
| Wood Stove (if applicable) | \$(43.80) <u>46.20</u> |
| Pellet Stove (if applicable) | \$(43.80) <u>46.20</u> |
| Gas*** Room Heater (if applicable) | \$(43.80) <u>46.20</u> |
| Gas*** Decorative Appliance (if applicable) | \$(43.80) <u>46.20</u> |
| Range: Changing from gas*** to electric | \$(43.80) <u>46.20</u> |
| Electric Water Heater Replacement | \$(43.80) <u>46.20</u> |
| Electric Water Heater replacing Gas*** Water Heater | \$(43.80) <u>46.20</u> |
| Each added or modified 120 volt circuit (maximum charge is two circuits) | \$(43.80) <u>46.20</u> |
| Each added 240 volt circuit (for other than Heat Pumps, Air Conditioners, Furnaces, Water Heaters, Ranges, Hot Tubs or Spas) | \$(43.80) <u>46.20</u> |
| Hot Tub or Spa (power from home electrical panel) | \$(43.80) <u>46.20</u> |
| Replace main electrical panel/permanently installed transfer equipment | \$(43.80) <u>46.20</u> |
| Low voltage fire/intrusion alarm | \$(43.80) <u>46.20</u> |
| Fire Safety | \$(43.80) <u>46.20</u> |
| Any combination of Furnace, Range and Water Heater changing from electric to gas*** | \$(43.80) <u>46.20</u> |
| PLUMBING | |
| Fire sprinkler system (also requires a plan review) | \$(21.90) <u>23.10</u> |
| Each added fixture | \$(21.90) <u>23.10</u> |
| Replacement of water piping system (this includes two inspections) | \$(98.80) <u>104.20</u> |
| STRUCTURAL | |
| Inspection as part of a mechanical/fire safety installation (cut truss/floor joist, sheet rocking) | \$(43.80) <u>46.20</u> |
| Reroofs (may require a plan review) | \$(76.80) <u>81.00</u> |
| Changes to home when additions bear loads on home per the design of a professional (also requires a plan review) | \$(76.80) <u>81.00</u> |
| Other structural changes (may require a plan review) | \$(76.80) <u>81.00</u> |
| Fire Safety (may also require an electrical fire safety inspection) | \$(43.80) <u>46.20</u> |
| MISCELLANEOUS | |
| OTHER REQUIRED INSPECTIONS (Per hour*) | \$(60.30) <u>63.60</u> |
| ALL REINSPECTIONS (Per hour*) | \$(60.30) <u>63.60</u> |
| Refund | \$(10.90) <u>11.50</u> |
| INSIGNIA FEES: | |
| ALTERATION | \$(10.90) <u>11.50</u> |
| FIRE SAFETY CERTIFICATE | \$(10.90) <u>11.50</u> |
| REISSUED - LOST/DAMAGED | \$(10.90) <u>11.50</u> |
| IPIA | |
| DEPARTMENT AUDIT FEES | |
| REGULARLY SCHEDULED IPIA AUDIT: | |
| First inspection on each section (one time only) | \$(30.40) <u>32.00</u> |
| Second and succeeding inspections of unlabeled sections (Per hour*) | \$(66.90) <u>70.50</u> |
| OTHER IPIA FEES: | |
| Red tag removal during a regularly scheduled IPIA audit (Per hour*separate from other fees) | \$(66.90) <u>70.50</u> |
| Red tag removal at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**) | \$(66.90) <u>70.50</u> |
| Increased frequency surveillance (Per hour* plus travel time* and mileage**) | \$(66.90) <u>70.50</u> |
| Attendance at manufacturers training classes (Per hour* only) | \$(66.90) <u>70.50</u> |
| Subpart "I" investigations (Per hour* plus travel time* and mileage**) | \$(66.90) <u>70.50</u> |
| Alterations to a labeled unit (Per hour* plus travel time* and mileage**) | \$(66.90) <u>70.50</u> |
| IPIA Issues/Responses (Per hour* Plus travel time* and mileage**) | \$(66.90) <u>70.50</u> |
| Monthly surveillance during a regularly scheduled IPIA audit (Per hour*plus travel time* and mileage**) | \$(66.90) <u>70.50</u> |
| Monthly surveillance at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**) | \$(66.90) <u>70.50</u> |
| Plant certifications, recertifications and addenda updates (Per hour* plus travel time* and mileage** per each inspector) | \$(66.90) <u>70.50</u> |
| Response to HBT Audit during a regularly scheduled IPIA audit (Per hour*) | \$(66.90) <u>70.50</u> |

| | |
|--|--------------------------|
| Response to HBT Audit at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time*and mileage**) | \$((66.90)) <u>70.50</u> |
| Alternative construction (AC) letter inspections at placement site (Per hour* plus travel time*and mileage**) | \$((66.90)) <u>70.50</u> |
| Replacement of HUD labels (Per hour* plus travel time* and mileage**) | \$((66.90)) <u>70.50</u> |
| State Administrative Agency (SAA) inspection fee (Per hour* plus travel time* and mileage**) | \$((66.90)) <u>70.50</u> |
| <u>State Administrative Agency (SAA) dispute resolution filing fee</u> | <u>\$70.50</u> |
| <u>State Administrative Agency (SAA) dispute resolution (Per hour*)</u> | <u>\$70.50</u> |
| OTHER FEES: | |
| FIELD TECHNICAL SERVICE (Per hour plus travel time* and mileage**) | \$((62.00)) <u>65.40</u> |
| PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request) | \$((12.30)) <u>12.90</u> |
| VARIANCE INSPECTION FEE | \$((87.70)) <u>92.50</u> |
| HOMEOWNER REQUESTED INSPECTION | \$((87.70)) <u>92.50</u> |
| DECERTIFICATION OF A MOBILE/MANUFACTURED HOME | \$((87.70)) <u>92.50</u> |
| DEMOLITION OF A MOBILE/MANUFACTURED HOME | \$((87.70)) <u>92.50</u> |
| ENERGY CONSERVATION PERMIT | \$((15.00)) <u>15.80</u> |
| NOTE: Local jurisdictions may have other fees that apply. | |
| * Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments. | |
| ** Per state guidelines. | |
| *** Gas means all gases; natural, propane, etc. | |

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-150T-3000 Factory-built temporary worker housing fees.

| | |
|---|----------------------------|
| INITIAL FILING FEE | \$((48.00)) <u>50.60</u> |
| DESIGN PLAN FEES: | |
| INITIAL ONE YEAR DESIGN | \$((138.80)) <u>146.40</u> |
| RENEWAL FEE | \$((48.00)) <u>50.60</u> |
| RESUBMIT FEE | \$((69.10)) <u>72.90</u> |
| ADDENDUM (Approval expires on same date as original plan) | \$((69.10)) <u>72.90</u> |
| ELECTRONIC PLAN SUBMITTAL FEE \$((4.90)) <u>5.10</u> per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section. | |
| Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour* | \$((81.90)) <u>86.40</u> |
| APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS | \$((12.90)) <u>13.60</u> |
| DEPARTMENT INSPECTION FEES | |
| INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**) | \$((69.10)) <u>72.90</u> |
| TRAVEL (Per hour)* | \$((69.10)) <u>72.90</u> |
| PER DIEM** | |
| HOTEL*** | |
| MILEAGE** | |
| RENTAL CAR*** | |
| PARKING*** | |
| AIRFARE*** | |
| DEPARTMENT AUDIT FEES: | |
| AUDIT (Per hour*) | \$((69.10)) <u>72.90</u> |
| TRAVEL (Per hour*) | \$((69.10)) <u>72.90</u> |
| PER DIEM** | |
| HOTEL*** | |
| MILEAGE** | |
| RENTAL CAR*** | |

| | |
|--|---------------------|
| PARKING*** | |
| AIRFARE*** | |
| INSIGNIA FEES: | |
| FIRST SECTION | \$((194.60)) 205.30 |
| EACH ADDITIONAL SECTION | \$((18.90)) 19.90 |
| REISSUED-LOST/DAMAGED | \$((48.00)) 50.60 |
| ELECTRICAL COMMERCIAL/INDUSTRIAL | |
| Electrical Service/feeders 200 Amperage plus | |
| Service/feeder | \$((201.60)) 212.70 |
| Additional Feeder | \$((38.20)) 40.30 |
| ELECTRICAL MULTIFAMILY RESIDENTIAL | |
| Electrical Service/feeders 200 Amperage plus | |
| Service/feeder | \$((106.90)) 112.80 |
| Additional Feeder | \$((27.20)) 28.70 |
| OTHER FEES: | |
| FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**) | \$((69.10)) 72.90 |
| PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free per year) | \$((12.90)) 13.60 |
| * Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments | |
| ** Per state guidelines | |
| *** Actual charges incurred | |

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-150V-3000 Conversion vendor units and medical units—Fees.

| | |
|--|---------------------|
| INITIAL FILING FEE | \$((34.30)) 36.10 |
| DESIGN PLAN FEES: | |
| INITIAL FEE - MASTER DESIGN | \$((236.70)) 249.70 |
| INITIAL FEE - ONE YEAR DESIGN | \$((96.80)) 102.10 |
| RENEWAL FEE | \$((41.20)) 43.40 |
| RESUBMIT FEE | \$((69.10)) 72.90 |
| ADDENDUM (Approval expires on same date as original plan) | \$((69.10)) 72.90 |
| ELECTRONIC PLAN SUBMITTAL FEE \$((4.90)) 5.10 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section. | |
| ELECTRICAL PLAN REVIEW (Plan review for educational, institutional or health care facilities and other buildings) | |
| Electrical plan submission fee | \$((69.10)) 72.90 |
| Service/feeder ampacity: | |
| 0 - 100 | \$((30.60)) 32.20 |
| 101 - 200 | \$((38.10)) 40.20 |
| 201 - 400 | \$((71.60)) 75.50 |
| 401 - 600 | \$((84.40)) 89.00 |
| 601 - 800 | \$((108.80)) 114.80 |
| 801 - 1000 | \$((133.20)) 140.50 |
| Over 1000 | \$((144.60)) 152.50 |
| Over 600 volts surcharge | \$((22.80)) 24.00 |
| Thermostats: | |
| First | \$((13.40)) 14.10 |

| | |
|---|----------------------------|
| Each additional | \$((3-10)) <u>3.20</u> |
| Low voltage fire alarm and burglar alarm: | |
| Each control panel and up to four circuits or zones | \$((12-30)) <u>12.90</u> |
| Each additional circuit or zone | \$((2-00)) <u>2.10</u> |
| Generators, refer to appropriate service/feeder ampacity fees | |
| <i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i> | |
| Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour* | \$((81-80)) <u>86.30</u> |
| RECIPROCAL PLAN REVIEW: | |
| INITIAL FEE - MASTER DESIGN | \$((105-50)) <u>111.30</u> |
| INITIAL FEE - ONE YEAR DESIGN | \$((63-70)) <u>67.20</u> |
| RENEWAL FEE | \$((63-70)) <u>67.20</u> |
| ADDENDUM | \$((63-70)) <u>67.20</u> |
| APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS | |
| | \$((12-90)) <u>13.60</u> |
| DEPARTMENT INSPECTION FEES: | |
| INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**) | \$((69-10)) <u>72.90</u> |
| TRAVEL (Per hour)* | \$((69-10)) <u>72.90</u> |
| PER DIEM** | |
| HOTEL*** | |
| MILEAGE** | |
| RENTAL CAR*** | |
| PARKING*** | |
| AIRFARE*** | |
| ALTERATION INSPECTION (One hour plus insignia alteration fee) | \$((103-40)) <u>109.10</u> |
| DEPARTMENT AUDIT FEES: | |
| AUDIT (Per hour*) | \$((69-10)) <u>72.90</u> |
| TRAVEL (Per hour*) | \$((69-10)) <u>72.90</u> |
| PER DIEM** | |
| HOTEL*** | |
| MILEAGE** | |
| RENTAL CAR*** | |
| PARKING*** | |
| AIRFARE*** | |
| INSIGNIA FEES: | |
| FIRST SECTION/ALTERATION | \$((19-90)) <u>21.00</u> |
| REISSUED-LOST/DAMAGED | \$((12-90)) <u>13.60</u> |
| EXEMPT | \$((34-30)) <u>36.10</u> |
| ELECTRICAL COMMERCIAL/INDUSTRIAL | |
| Electrical Service/feeders 200 Amperage plus | |
| Service/feeder | \$((201-60)) <u>212.70</u> |
| Additional Feeder | \$((38-20)) <u>40.30</u> |
| ELECTRICAL MULTIFAMILY RESIDENTIAL | |
| Electrical Service/feeders 200 Amperage plus | |
| Service/feeder | \$((106-90)) <u>112.80</u> |
| Additional Feeder | \$((27-20)) <u>28.70</u> |

| | |
|--|-------------------------------------|
| OTHER FEES: | |
| FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**) | \$(69.10) <u>72.90</u> |
| PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request) | \$(12.90) <u>13.60</u> |
| * Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments. | |
| ** Per state guidelines. | |
| *** Actual charges incurred. | |

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-400A-045 What fees will I have to pay? The following are the department's plumbers fees:

(1) Fees related to journeyman and specialty plumber certification:

| <u>Type of Fee</u> | <u>Period Covered by Fee</u> | <u>Dollar Amount of Fee</u> |
|--|---|---------------------------------------|
| Examination application | Per examination | \$(126.10) <u>133.00</u> |
| Domestic pump specialty application fee***** | Per application | \$(126.10) <u>133.00</u> |
| Reciprocity application* | Per application | \$(126.10) <u>133.00</u> |
| Trainee certificate** | One year | \$(37.70) <u>39.70</u> |
| ((Domestic pump specialty trainee certificate** | Two years | \$75.40) |
| Temporary permit (not applicable for backflow assembly maintenance and repair specialty) | 90 days | \$(62.70) <u>66.10</u> |
| Journeyman or residential specialty certificate*** | Two years (fee may be prorated based on months) | \$(101.00) <u>106.50</u> |
| Domestic pump specialty plumber certificate*** | Three years (fee may be prorated based on months) | \$(151.50) <u>159.80</u> |
| Backflow assembly maintenance and repair specialty certificate | Two years (fee may be prorated based on months) | \$(69.70) <u>73.50</u> |
| Medical gas endorsement application | Per application | \$(46.50) <u>49.00</u> |
| Medical gas endorsement*** | One year | \$(34.70) <u>36.60</u> |
| Medical gas endorsement examination fee**** | | See note below. |
| Medical gas endorsement training course fee***** | | See note below. |
| Domestic pump specialty examination fee**** | | See note below. |
| Reinstatement fee for residential and journeyman certificates | | \$(202.40) <u>213.50</u> |
| Reinstatement fee for backflow assembly maintenance and repair specialty certificates | | \$(116.50) <u>122.90</u> |
| Reinstatement fee for domestic pump | | \$(303.00) <u>319.70</u> |
| Replacement fee for all certificates | | \$(17.10) <u>18.00</u> |
| Refund processing fee | | \$(27.20) <u>28.70</u> |
| Unsupervised trainee endorsement | | \$(27.20) <u>28.70</u> |
| Inactive status fee | | \$(27.20) <u>28.70</u> |
| Honorary plumbing certification | | \$(101.00) <u>106.50</u> |
| Certified letter fee | | \$(27.20) <u>28.70</u> |
| Continuing education new course fee***** | | \$(164.10) <u>173.00</u> |
| Continuing education renewal course fee***** | | \$(81.90) <u>86.40</u> |

| <u>Type of Fee</u> | <u>Period Covered by Fee</u> | <u>Dollar Amount of Fee</u> |
|--|------------------------------|--|
| Continuing education classes provided by the department | | \$12 per continuing education training hour \$8 per continuing education training hour for correspondence and internet courses |
| * Reciprocity application is only allowed for applicants that are applying work experience toward certification that was obtained in state(s) with which the department has a reciprocity agreement. The reciprocity application is valid for one year. | | Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW). |
| ** The trainee certificate shall expire one year from the date of issuance and must be renewed on or before the date of expiration. The domestic pump specialty trainee certificate shall expire two years from the date of issuance and must be renewed on or before the date of expiration. | | 3 DATE OF ADOPTION: The commission adopts this rule on the date this order is entered. |
| *** This fee applies to either the original issuance or a renewal of a certificate. If you have passed the plumbers certificate of competency examination or the medical gas piping installer endorsement examination and paid the certificate fee, you will be issued a plumber certificate of competency or a medical gas endorsement that will expire on your birth date. The annual renewal of a Medical Gas Piping Installer Endorsement shall include a continuity affidavit verifying that brazing work has been performed biannually. | | 4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them. |
| **** This fee is paid directly to a nationally recognized testing agency under contract with the department. It covers the cost of preparing and administering the written competency examination and the materials necessary to conduct the practical competency examination required for the medical gas piping system installers endorsement. This fee is not paid to the department. | | 5 To avoid unnecessary duplication in the record of this docket, the commission designates the discussion in this order, including appendices, as its concise explanatory statement, supplemented where not inconsistent by the staff memorandum preceding the filing of the CR-102 proposal and the adoption hearing. Together, these documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions. |
| ***** This fee is paid directly to a training course provider approved by the department, in consultation with the state advisory board of plumbers. It covers the cost of providing training courses required for the medical gas piping system installer endorsement. This fee is not paid to the department. | | 6 REFERENCE TO AFFECTED RULES: This order amends the following sections of the Washington Administrative Code: WAC 480-75-100 Definitions, 480-75-200 Application of rules, 480-75-210 Additional requirements, 480-75-240 Annual pipeline safety fee methodology, 480-75-250 Civil penalty for violation of chapter 81.88 RCW, 480-75-260 Exemption for rules in chapter 480-75 WAC, 480-75-270 Damage prevention, 480-75-300 Leak detection, 480-75-310 Geological considerations, 480-75-320 Overpressure protection, 480-75-330 Overfill protection, 480-75-340 Cathodic protection test station location, 480-75-350 Design specifications for new pipeline, 480-75-360 Class locations, 480-75-370 Design factor (<i>F</i>) for steel pipe, 480-75-380 Location of pump stations and breakout tanks for pipelines, 480-75-390 Valve spacing and rapid shutdown, 480-75-400 Backfill and bed requirements, 480-75-410 Coatings, 480-75-420 Hydrostatic test requirements, 480-75-430 Welding procedures, 480-75-440 Pipeline repairs, 480-75-450 Construction specifications, 480-75-460 Welding inspection requirements, 480-75-500 Moving and lowering hazardous liquid pipelines, 480-75-510 Remedial action for corrosion deficiencies, 480-75-520 Inspections during excavation, 480-75-530 Right of way inspections, 480-75-540 Pipeline markers and above ground facilities, 480-75-550 Change in class locations, 480-75-600 Maps, drawings, and records of hazardous liquid facilities, 480-75-610 Reporting requirements for proposed construction, 480-75-620 Pressure testing reporting requirements, 480-75-630 Incident reporting, 480-75-640 Depth-of-cover survey, 480-75-650 Annual reports, 480-75-660 Procedural manual for operations, maintenance, and emergencies, and 480-75-999 Adoption by reference. |
| ***** This fee is for a three-year period or code cycle. | | |
| ***** The domestic pump specialty application is valid for one year. | | |
| (2) If your birth year is: | | |
| (a) In an even-numbered year, your certificate will expire on your birth date in the next even-numbered year. | | |
| (b) In an odd-numbered year, your certificate will expire on your birth date in the next odd-numbered year. | | |

WSR 08-12-045
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket PL-070974, General Order R-548—Filed May 30, 2008, 3:18 p.m., effective June 30, 2008]

In the matter of amending chapter 480-75 WAC, relating to Hazardous liquid, gas, oil and petroleum pipeline companies—Safety.

1 **STATUTORY OR OTHER AUTHORITY:** The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 08-07-080, filed with the code reviser on March 19, 2008. The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.060, and 81.88.040.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS

THEREUNDER: The commission filed preproposal statements of inquiry (CR-101) on July 26, 2007, at WSR 07-16-059 and on October 24, 2007, at WSR 07-21-146.

8 The statements advised interested persons that the commission was considering entering a rule making for chapter 480-75 WAC, Hazardous liquid, gas, oil and petroleum pipeline companies—Safety, amending the rules to reflect changes in Title 81 RCW resulting from the passage of SSB 5225 during the 2007 legislative session. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notices to all regulated pipeline companies and the commission's list of regulatory attorneys. Pursuant to the notices, the commission received written comments.

9 **NOTICE OF PROPOSED RULE MAKING:** The commission filed a notice of proposed rule making (CR-102) on March 19, 2008, at WSR 08-07-080. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 08-07-080 at 1:30 p.m., Thursday, May 15, 2008, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

10 **WRITTEN COMMENTS:** The commission received no written comments on the proposed rules.

11 **RULE-MAKING HEARING:** The commission considered the proposed rules for adoption at a rule-making hearing on May 15, 2008, before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. No person made oral comments.

12 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and adopt the rules as proposed in the CR-102 at WSR 08-07-080.

13 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the commission determines that chapter 480-75 WAC should be amended to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 35, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

ORDER

14 THE COMMISSION ORDERS:

15 The commission amends chapter 480-75 WAC to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

16 This order and the rules set out below, after being recorded in the register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and 1-21 WAC.

DATED at Olympia, Washington, on May 29, 2008.

Washington State Utilities and Transportation Commission

Mark H. Sidran, Chairman
Patrick J. Oshie, Commissioner
Philip B. Jones, Commissioner

Chapter 480-75 WAC**HAZARDOUS LIQUID(~~(GAS, OIL AND PETROLEUM)) PIPELINES (~~(COMPANIES))~~—SAFETY~~**

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-100 Definitions. "Backfill" means the material filled over the pipe after the pipe is lowered into a trench.

"Bedding" means the material placed in the bottom of a trench prior to laying a pipe.

"Breakout tank" means a tank that is used to relieve surges in a hazardous liquid pipeline system, or a tank used to receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline.

~~("Company," "pipeline company," or "hazardous liquid pipeline company" means a person or entity constructing, owning, or operating a pipeline for transporting hazardous liquid or carbon dioxide. A "pipeline company" does not include: (a) Distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail; or (b) excavation contractors or other contractors that contract with a pipeline company.)~~

"Hazardous liquid" means (a) petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 CFR Part 195 and (b) carbon dioxide.

"Hazardous liquid pipeline" or "pipeline" means all parts of a pipeline facility through which hazardous liquid moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. It does not include all parts of a pipeline facility through which a hazardous liquid moves in transportation through refining or manufacturing facilities or storage or in-plant piping systems associated with such facilities, a pipeline subject to safety regulations of the United States Coast Guard, or a pipeline that serves refining.

manufacturing, or truck, rail or vessel terminal facilities, if the pipeline is less than one mile long, measured outside facility grounds, and does not cross an offshore area or a waterway used for commercial navigation.

"Hazardous liquid pipeline company" or "pipeline company" means a person or entity constructing, owning, or operating a hazardous liquid pipeline, but does not include excavation contractors or other contractors that contract with a hazardous liquid pipeline company.

"Independent level alarm" means an alarm function actuated by a primary level sensing device that is separate and independent from any tank gauging equipment on the tank.

"Line pipe" or "pipe" means a tube, usually cylindrical, through which a hazardous liquid is transported from one point to another.

"Major construction" means any change in pipeline routing, either horizontally or depth, or replacement of existing pipe of one hundred feet or more in length.

"Maximum operating pressure (MOP)" means the maximum operating pressure at which a pipeline may be operated under 49 CFR Part 195.

"New pipeline" means a new hazardous liquid pipeline that did not previously exist, or an extension of an existing pipeline ~~((of))~~ of one hundred feet or longer.

~~("Operator" means a person who owns or operates pipeline facilities.)~~

"Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any political subdivision or instrumentality of a state, and its employees, agents, or legal representatives.

~~("Pipeline," "pipeline system," or "hazardous liquid pipeline" means all parts of a pipeline facility through which hazardous liquid moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. Pipeline or pipeline system does not include process or transfer pipelines.~~

~~"Pipeline facility" means new and existing pipeline, rights of way and any equipment, facility, or building used in the transportation of hazardous liquids or carbon dioxide.)~~

"Release" means when hazardous liquid escapes from the pipeline.

"Subsoiling" means the agricultural practice of breaking compact subsoil.

"Telephonic notification" means verbal notification by telephone to the Washington utilities and transportation commission, pipeline safety division using the pipeline safety incident notification telephone number (1-888-321-9146).

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-200 Application of rules—Responsibility for contractors. (1) The rules in this chapter apply to hazardous liquid pipeline companies that are subject to the jurisdiction of the commission under chapter 81.88 RCW. The

purpose of ~~((the))~~ these rules is to provide minimum safety standards and reporting requirements for the transportation of hazardous liquids by pipeline, and to set forth a regulatory fee methodology that applies to all pipeline companies subject to inspection by the commission.

(2) While the commission's hazardous liquid pipeline safety statutes and rules impose obligations on pipeline companies, a pipeline company may contract with a person to do tasks that are subject to these rules, such as excavation, construction, and maintenance. If the pipeline company's contractor (or any of its subcontractors) engages in conduct that violates commission rules applicable to the pipeline company, the pipeline company is subject to penalties and all other applicable remedies, as if the pipeline company itself engaged in that conduct, including intentional noncompliance or other intentional violations of these rules by the contractor (or any of its subcontractors). The pipeline company is responsible for maintaining measures designed to detect intentional violations of these rules by a contractor and any of its subcontractors.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-210 Additional requirements. (1) These rules do not relieve any pipeline company from any of its duties and obligations under the laws of the state of Washington.

(2) The commission retains the authority to impose additional or different requirements on any company in appropriate circumstances, consistent with the requirements of law.

AMENDATORY SECTION (Amending Docket No. P-041344, General Order No. R-523, filed 8/4/05, effective 7/1/06)

WAC 480-75-240 Annual pipeline safety fee methodology. (1) ~~((Every hazardous liquid pipeline company subject to inspection or enforcement by the commission))~~ This rule sets forth the commission's regulatory fee methodology for hazardous liquid pipelines as that term is defined in RCW 81.88.010, and gas pipelines, as that term is defined in RCW 81.88.010. For purposes of this section, these pipelines are called "company" or "companies" and the "commission's pipeline safety program" means the pipeline safety program that includes each program.

(2) Each company will pay an annual pipeline safety fee as established in the methodology set forth in ~~((section (2) below))~~ subsection (3) of this section.

~~((2))~~ (3) The fee will be set by general order of the commission entered before ~~((July))~~ September 1 of each year and will be collected in four equal installments payable on the first day of each ~~((calendar))~~ quarter as listed below:

1st quarter fee installment due September 1;

2nd quarter fee installment due December 1;

3rd quarter fee installment due March 1;

4th quarter fee installment due June 1.

(a) The total of pipeline safety fees will be calculated to recover no more than the costs of the legislatively authorized workload represented by current appropriations for the com-

mission's pipeline safety program, less the amount received in total base grants through the Federal Department of Transportation and less any amount received from penalties collected under RCW 19.122.050. Federal grants, other than the federal base grant, received by the commission for additional activities not included or anticipated in the legislatively directed workload will not be credited against pipeline company (~~(pipeline)~~) safety fees, nor will the work supported by (~~(such)~~) grants be considered a cost for purposes of calculating (~~(such)~~) fees. To the extent that the actual base grant proceeds are different than the amount credited, the difference will be applied in the following year.

(b) Total pipeline safety fees as determined in (a) of this subsection will be calculated in two parts:

(i) The commission's annual overhead charge to the pipeline safety program will be allocated among companies according to each company's share of the total of all pipeline miles within Washington as reported by (~~(the)~~) companies in their annual reports to the commission.

(ii) After deducting the commission's annual overhead charge, the remainder of the total pipeline safety fees will be allocated among companies in proportion to each company's share of the commission pipeline safety program staff hours that are directly attributable to particular companies. The commission will determine each company's share by dividing the total hours directly attributable to (~~(the)~~) each company during the two preceding calendar years (as reflected in the program's timekeeping system) by the total of directly attributable hours for all companies over the same period.

(iii) For fee-setting purposes, any program hours related to a (~~(staff)~~) commission investigation of an incident found to be attributed to third-party damage (~~(resulting)~~) that results in penalties collected under RCW 19.122.055 will not be directly attributed to the (~~(operator)~~) owner of the damaged pipeline (~~(for fee-setting purposes)~~).

(c) The commission general order setting fees pursuant to this rule will detail the specific calculation of each company's pipeline safety fee including the allocations set forth in (b) of this subsection.

~~((3))~~ (4) By (~~(June)~~) August 1 of each year the commission (~~(staff)~~) will mail an invoice to each company (~~(an invoice)~~).

~~((4))~~ (5) All funds received by the commission for the pipeline safety program will be deposited to the pipeline safety account. For (~~(those companies)~~) each gas pipeline company subject to RCW 81.24.010 (~~(the)~~), its portion of the company's total regulatory fee applicable to pipeline safety will be transferred from the public service revolving fund to the pipeline safety account.

~~((5))~~ (6) Any company wishing to contest the amount of the fee imposed under this section must pay the fee when due and, within (~~(6))~~ six months (~~(of)~~) after the due date of the fee, file a written petition (~~(in writing)~~) with the commission requesting a refund. The petition shall state the name of the petitioner; the date and the amount paid, including a copy of any receipt, if available; the amount of the fee that is contested; (~~(and any)~~) all reasons why the commission (~~(may)~~) should not impose the fee in that amount; and a calculation and explanation of the fee amount the petitioner contends is appropriate, if any. The commission may grant the petition

administratively or may set the petition for adjudication (~~(or for brief adjudication)~~).

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-250 Civil penalty for violation of chapter 81.88 RCW. (~~((1))~~) Any pipeline company that violates any (~~(public)~~) pipeline safety provision of any commission order or any rule in this chapter including those rules adopted by reference, or chapter 81.88 RCW (~~(or regulation issued thereunder, required for compliance with the Federal Pipeline Safety Law, 49 U.S.C. Section 60101,)~~) is subject to a civil penalty not to exceed (~~(twenty-five)~~) one hundred thousand dollars for each violation for each day that the violation persists. The maximum civil penalty under this subsection for a related series of violations is (~~(five hundred thousand)~~) one million dollars. (~~(This subsection applies to violations of public safety requirements including any commission order or chapter 480-75 WAC.~~)

(2) ~~In determining the amount of the penalty, the commission will consider the appropriateness of the penalty in relation to the position of the person charged with the violation.~~

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-75-260 Exemption for rules in chapter 480-75 WAC. (~~((1))~~) The commission may grant an exemption from (~~(the provisions of)~~) any rule in this chapter (~~(if consistent with the public interest, with the purposes underlying regulation, and with applicable statutes.~~

(2) ~~To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought, giving a full explanation of the reason for the exemption.~~

(3) ~~The commission will assign the request a docket number, if it does not arise in an existing docket, and will schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the hearing or open meeting when the commission will consider the request.~~

(4) ~~In determining whether to grant the request, the commission may consider whether application of the rule would impose undue hardship on the petitioner, of a degree or a kind different from hardship imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the purpose of the rule.~~

(5) ~~The commission will enter an order granting or denying the request, or setting it for hearing pursuant to chapter 480-07 WAC)~~ pursuant to WAC 480-07-110. Please refer to that rule for applicable procedures.

AMENDATORY SECTION (Amending Docket PL-061026, General Order R-541, filed 4/4/07, effective 5/5/07)

WAC 480-75-270 Damage prevention. Each ~~((operator))~~ pipeline company must comply with the provisions of chapter 19.122 RCW, to the extent those provisions apply to the ~~((operator. A failure))~~ pipeline company. A pipeline company violates this rule if the pipeline company fails to comply with ((any of the provisions of)) chapter 19.122 RCW ((is a violation of this rule)). Each day a violation persists is a separate violation of this rule. In determining whether ~~((an operator))~~ a pipeline company has complied with the provisions of chapter 19.122 RCW, the definitions contained in that chapter will apply. The definitions in chapter 480-75 WAC (other than the definition of ~~(("operator"))~~ "hazardous liquid pipeline company") do not apply.

AMENDATORY SECTION (Amending Docket PL-061026, General Order R-541, filed 4/4/07, effective 5/5/07)

WAC 480-75-300 Leak detection. (1) Pipeline companies must rapidly locate leaks from their pipeline. Pipeline companies must provide leak detection under flow and no flow conditions.

(2) Leak detection systems must be capable of detecting an eight percent of maximum flow leak within fifteen minutes or less.

(3) Pipeline companies must have a leak detection procedure and a procedure for responding to alarms. The ~~((operator))~~ pipeline company must maintain leak detection maintenance and alarm records.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-310 Geological considerations. When a pipeline company is planning to build a new pipeline, the design((s)) of the new pipeline must ((consider)) reflect consideration of the potential impacts from seismic activity and earth movement.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-320 Overpressure protection. A pipeline company must conduct a surge analysis to ensure that the surge pressure does not exceed one hundred ten percent of the MOP. The pipeline company must design and operate the pressure relief system ((must be designed and operated as determined in)) consistent with the surge analysis, at or below the MOP except under surge conditions.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-330 Overfill protection. If a pipeline contains break out tanks, such tanks must have an independent level alarm.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-340 Cathodic protection test station location. Pipeline companies must ensure that each cathodically protected pipeline ((must have)) has test stations and other electrical measurement contact points that are located at pipe casings and at locations sufficient to facilitate cathodic protection testing.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-350 Design specifications for new pipeline ((projects)). Pipeline companies must design new pipelines ((projects must be designed)) in accordance with ASME B31.4 "Pipeline Transportation Systems for Liquid Hydrocarbon and Other Liquids." Information about the ASME edition adopted and where to obtain it are set out in WAC 480-75-999, Adoption by reference.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-360 Class locations. (1) This section classifies pipeline locations for the design of new pipelines. The following criteria apply to classifications under this section.

(a) A "class location unit" is an onshore area that extends 220 yards (200 meters) on either side of the centerline of any continuous ~~((+))~~ one mile (1.6 kilometers) of pipeline.

(b) Each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

(2) Except as provided in subsection (3) of this section, pipeline locations are classified as follows:

(a) A Class 1 location is:

(i) An offshore area; or

(ii) Any class location unit that has ten or fewer buildings intended for human occupancy.

(b) A Class 2 location is any class location unit that has more than ten but fewer than forty-six buildings intended for human occupancy.

(c) A Class 3 location is:

(i) Any class location unit that has forty-six or more buildings intended for human occupancy; or

(ii) An area where the pipeline lies within 100 yards (91 meters) of either a building or a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by twenty or more persons on at least five days a week for ten weeks in any twelve-month period. (The days and weeks need not be consecutive.)

(d) A Class 4 location is any class location unit where buildings with four or more stories above ground are prevalent.

(3) The pipeline company must adjust the continuous one-mile of pipeline ((must be adjusted to include)) refer-

enced in subsection (1)(a) of this section by including all buildings in the higher class location. The class location unit must encompass the highest classification of buildings.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-370 Design factor (F) for steel pipe.

Except as otherwise provided in subsections (1), (2) and (3) of this section, the design factor ~~((to be))~~ a pipeline company used in the design formula in 49 CFR Section 195.106 for new pipelines is determined in accordance with the following table. ~~((Information about))~~ The applicable version of the Code of Federal Regulations ~~((regarding the version adopted and where))~~ and how to obtain it is set out in WAC 480-75-999, Adoption by reference.

| Class location | Design factor (F) |
|----------------|-------------------|
| 1 | 0.72 |
| 2 | 0.60 |
| 3 | 0.50 |
| 4 | 0.40 |

(1) For Class 1 locations a design factor of 0.60 or less must be used in the design formula in 49 CFR Section 195.106 for steel pipe in Class 1 locations that:

- (a) Crosses the right of way of an unimproved public road, without a casing;
- (b) Crosses without a casing, or makes a parallel encroachment on the right of way of either a hard-surfaced road, a highway, a public street, or a railroad;
- (c) Is supported by a vehicular, pedestrian, railroad, or pipeline bridge; or
- (d) Is used in a fabricated assembly (including mainline valve assemblies, cross-connections, and river crossing headers).

(2) For Class 2 locations, a design factor of 0.50, or less, must be used in the design formula in 49 CFR Section 195.106 for uncased steel pipe that crosses the right of way of a hard-surfaced road, a highway, a public street, or a railroad.

(3) For Class 1 and Class 2 locations, a design factor of 0.50, or less, must be used in the design formula in 49 CFR Section 195.106 for:

- (a) Steel pipe in a pump station; and
- (b) Steel pipe (including a pipe riser, on a platform located offshore or in inland navigable waters).

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-380 Location of pump stations and breakout tanks for ~~((hazardous liquid))~~ pipelines. ~~((No))~~

A pipeline company shall not construct a new pump station ~~((will be located on any hazardous liquid pipeline or be constructed))~~ on the pipeline in any zoned area without prior approval of the appropriate zoning authority and ~~((acquisition of required))~~ having acquired all necessary permits. In areas not zoned, the ~~((distance between any))~~ pump station ~~((and~~

any)) shall not be located closer than five hundred feet from an existing building intended for human occupancy ~~((and not))~~ ~~((other than a building under the control of the pipeline company))~~ ~~((will not be less than five hundred feet))~~. When locating new pump stations and breakout tanks, the ~~((operator))~~ pipeline company must consider such hazards as overhead power lines, geologic faults, areas prone to flooding, landslides, and falling rocks ~~((fall))~~. This requirement only applies ~~((prior to))~~ before the facility ~~((construction))~~ is constructed.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-508, filed 12/12/02, effective 1/12/03)

WAC 480-75-390 Valve spacing and rapid shutdown.

(1) Each pipeline company must have procedures to rapidly locate and isolate reportable releases from ~~((a))~~ its pipeline.

(2) When determining the type of valve to be used, its location, and its shut-off time, ~~((a))~~ each pipeline company must consider the following:

- (a) Terrain;
- (b) Geohazards;
- (c) Drainage; and
- (d) Type and condition of the pipe.

(3) Whenever a pipeline company installs a new rapid shutdown valve ~~((is to be installed))~~, the pipeline company must conduct a surge analysis to ensure that the surge pressure in the pipeline will not exceed one hundred ten percent of the maximum operating pressure as a result of a rapid valve closure.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-400 Backfill and ~~((bedding))~~ bed requirements.

(1) ~~((For))~~ When a pipeline company constructs a new pipeline(s) or ~~((when conducting))~~ conducts maintenance ~~((activity for))~~ on an existing pipeline~~((s backfilling and bedding must be provided in a manner that will))~~, the backfill and bed must provide firm support for the pipeline ~~((and in a manner))~~ such that neither the pipe nor the pipe coating is damaged by the backfill material or by subsequent surface activities.

(2) ~~((Where))~~ If the backfill material contains rocks or hard lumps that could damage the pipeline coating, the pipeline company must take care ~~((must be taken))~~ to protect the pipe and the pipe coating from damage ~~((by such means as the use of))~~, such as using mechanical shield material.

(3) ~~((Backfilling procedures))~~ A pipeline company's backfill practices must not cause distortion of the pipe cross-section that would be detrimental to the operation of the piping, or the passage of cleaning devices, ~~((or))~~ internal inspection devices, or other similar devices.

(4) ~~((Backfilling must be performed))~~ A pipeline company must apply backfill material in such a manner as to prevent excessive subsidence or erosion of the backfill and support material. Where a ditch is flooded, ~~((care must be exercised so))~~ the pipeline company must assure that the pipe is

not floated from the bottom of the ditch prior to completing the backfill (~~(completion)~~).

(5) For open trench installations that cross paved areas subject to vehicular loading, the ~~((backfill must be compacted))~~ pipeline company must compact the backfill in layers to a minimum of ninety-five percent relative density.

(6) The bedding and backfill material a pipeline company uses must ~~((be))~~ consist of clean sand or soil and it must not contain any stones ~~((having a maximum dimension))~~ larger than one-half inch. ~~((Material must be placed to))~~ The pipeline company must place the bedding and backfill material at a minimum depth of six inches under the pipe and six inches over the top of the pipe. The remaining backfill must not contain rock larger than six inches. The pipeline company shall not use organic material ~~((and))~~ or wood ~~((is not permitted))~~ for bedding ~~((and))~~ or backfill.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-410 Coatings. Before backfilling, each pipeline company must electrically inspect all new coated pipe used to transport hazardous liquids ~~((must be electrically inspected prior to backfilling))~~, using a holiday detector to check for faults not observable by visual examination. The pipeline company shall operate the holiday detector ~~((must be operated))~~ in accordance with the manufacturer's instructions and at the voltage level appropriate for the electrical characteristics of the pipeline ~~((system))~~ being tested.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-420 Hydrostatic test requirements. The following minimum requirements apply to a pipeline company when it conducts a hydrostatic test of a new or existing ~~((hazardous liquid))~~ pipeline ~~((s while being hydrostatically tested must have, at a minimum, the following))~~:

(1) ~~((When))~~ If a pipeline company uses a manifold ~~((is used))~~ for hydrostatic testing, ~~((then))~~ the company must provide an isolation valve ~~((must be provided))~~ between the pressure testing manifold and the pipeline being tested. The isolation valve must be rated for the manifold test pressure when in the closed position. The pipeline company must separately pressure ~~((testing))~~ test the manifold used in the actual pressure test ~~((must be separately pressure tested))~~ to at least 1.2 times the pipeline test pressure, but not less than the discharge pressure of the pump used for the pressure testing.

(2) ~~((When))~~ If a pipeline company uses a pressure relief valve ~~((is used))~~ to protect the pipe, ~~((then the pressure relief))~~ each such valve ~~((s))~~ must be of adequate capacity and set to relieve at ten percent above the hydrostatic test pressure. The ~~((relief valves))~~ pipeline company must ~~((be calibrated))~~ calibrate the relief valve within one month prior to the ~~((hydrotest))~~ hydrostatic test.

(3) The pipeline company may use a bleed valve ~~((may be provided))~~ to protect the pipeline from overpressure. When a pipeline company uses a bleed valve ~~((is used, it))~~,

the valve must be readily accessible in case immediate depressurization is required.

(4) ~~((A test chart or other recording method that shows that the pressure was maintained at the minimum test pressure throughout the entire test must be documented for all hydrostatic tests. A company representative must sign and date the test to certify the validity of the test. All equipment such as hoses, piping, and other equipment used to hydrostatically test the pipe must be rated for at least the target pressure. Each hydrostatic test of a pipeline must be documented to show:))~~ All equipment such as hoses, piping, and other equipment used to hydrostatically test the pipe must be rated for at least the target pressure.

(5) The pipeline company must maintain documents identifying how each hydrostatic test was conducted. Each document must be signed by a person with sufficient knowledge, certifying that the document contains accurate information about the test. The documents must contain the following information:

(a) The date of the test ~~((date));~~

(b) ~~((Signature of the certifying agent;))~~ A test chart or other record that shows that the pressure was maintained at the minimum test pressure throughout the entire test;

(c) Beginning and ending times of the test;

(d) Beginning and ending temperatures; and

(e) Highest and lowest pressure achieved.

~~((s))~~ (6) The pipeline company must conspicuously post precautions such as warning signs ~~((must be posted))~~ indicating that a hazardous liquid pipeline is under test conditions.

~~((6 Companies))~~ (7) The pipeline company must notify ~~((public officials who have))~~ the local government and fire department with jurisdiction ~~((encompassing))~~ in the area affected by the ~~((pipeline))~~ hydrostatic test.

~~((7 No additional))~~ (8) The pipeline company shall not add any water ~~((is allowed to be added))~~ to the pipeline ~~((one))~~ after the hydrostatic test has started. ~~((As))~~ Because pressure varies significantly with changing test water temperatures, each ~~((operator))~~ pipeline company must take into consideration temperature variations in the test water before accepting the test results.

~~((8 Before conducting a hydrostatic test, a))~~ (9) The pipeline company ~~((needs to consider))~~ must comply with applicable rules of the Washington state department of ecology ~~((regulations for))~~ addressing disposal of testing water.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500 and R-502, filed 8/26/02 and 9/20/02, effective 9/26/02 and 10/21/02)

WAC 480-75-430 Welding procedures. (1) ~~((For new and existing pipelines, all))~~ Each pipeline company must use welding procedures ~~((and welders must be qualified to))~~ specified in the API Standard 1104 or Section IX of the ASME Boiler and Pressure Vessel Code and each pipeline company must qualify its welders according to these standards. Information about ~~((the API))~~ these standards ~~((and the ASME edition adopted))~~, and where to obtain them, are set out in WAC 480-75-999, Adoption by reference. Each

welder qualification test result must be recorded and kept for a period of five years, and:

(a) ~~((Operators))~~ To qualify or requalify a welder or to qualify a welding procedure, each pipeline company must use testing equipment ~~((necessary to measure))~~ capable of measuring the essential variables used during ~~((welder qualification or requalification-))~~ the test. Each pipeline company must record all essential variables ~~((must be recorded as))~~ performed during the ~~((welding))~~ qualification or requalification.

(b) Each pipeline company must have the appropriate written qualified welding procedures ~~((must be on-site))~~ at the site where the welding is being performed.

(2) Each welder~~((s))~~ used by a pipeline company must carry appropriate identification and qualification cards showing the name of welder, ~~((their))~~ qualifications, the date ~~((of))~~ qualification ~~((expiration))~~ expires, and the name of the pipeline company whose procedures ~~((were followed))~~ the welder used for the qualification. Each welder~~((s))~~'s identification and qualification card~~((s))~~ will be subject to commission inspection at all times when ~~((personnel are))~~ a welder is working on ~~((facilities))~~ a facility subject to the commission's pipeline safety jurisdiction.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-440 Pipeline repairs. Each pipeline company must make pipeline repairs ~~((must be made))~~ in accordance with ASME B31.4 "Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids." Information about the ASME edition adopted and where to obtain it are set out in WAC 480-75-999, Adoption by reference.

AMENDATORY SECTION (Amending Docket PL-061026, General Order R-541, filed 4/4/07, effective 5/5/07)

WAC 480-75-450 Construction specifications. ~~((Operators))~~ Each pipeline company must assure that any new pipeline construction conforms to the requirements of ASME B31.4. ~~((Information about the ASME edition adopted and where to obtain it are set out in WAC 480-75-999, Adoption by reference.))~~ The longitudinal seams of connecting pipe joints must be offset by at least two inches. In addition, the longitudinal seams must be located on the upper half of the pipe when laid in an open trench. Information about the ASME edition adopted and where to obtain it are set out in WAC 480-75-999, Adoption by reference.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-460 Welding inspection requirements. Each pipeline company must inspect all new girth welds on new or repaired sections of pipe ~~((must be one hundred percent inspected))~~ by radiography or automatic ultrasonic testing in accordance with API 1104. Pipeline companies must keep a log of each weld inspected and keep all inspection

records for the life of the pipeline. Information about the API standards adopted ~~((and))~~ including where to obtain ~~((it are))~~ them is set out in WAC 480-75-999, Adoption by reference. ~~((Companies must keep a log of each weld inspected and keep all inspection records for the life of the pipeline.))~~

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-500 Moving and lowering hazardous liquid pipelines. ~~((Prior to moving or lowering any hazardous liquid pipeline, hazardous liquid pipeline companies must prepare a study.))~~ A pipeline company must prepare a study before it moves any line pipe to determine whether ~~((the proposed action))~~ moving the line pipe will cause an unsafe condition. Moving the line pipe includes lowering the line pipe. This study must be reviewed and approved by a person designated by the pipeline company who is qualified to review the study~~((, and retained in the company's files)).~~ The pipeline company must retain a copy of the study for the life of the pipeline. The study must include pipe stress calculations based on API RP 1117 "Movement of In-Service Pipelines." Information about the API standards adopted and where to obtain it are set out in WAC 480-75-999, Adoption by reference.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-510 Remedial action for corrosion deficiencies. Pipeline companies must initiate remedial action as necessary to correct ~~((deficiencies))~~ any deficiency observed during corrosion monitoring, ~~((but no later than))~~ within ninety days after ~~((acknowledging))~~ the pipeline company detects the ~~((deficiencies))~~ deficiency.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-520 Inspections during excavation. Whenever a pipe is exposed for any reason, the ~~((operator))~~ pipeline company must examine the pipe for evidence of mechanical damage or external corrosion, including inspecting the coating for evidence of damage. The pipeline company must evaluate all mechanical damage ~~((must be evaluated and repaired))~~ and repair it as necessary, in accordance with company repair procedures. ~~((Coating damage))~~ The pipeline company must ~~((be repaired prior to reburying the pipeline))~~ repair all coating damage before the pipeline is reburied. If the ~~((operator))~~ pipeline company finds active corrosion, general corrosion, or corrosion that has caused a leak, the ~~((operator))~~ pipeline company must investigate further to determine the extent of corrosion. The pipeline company must ~~((be inspected))~~ also inspect the pipeline prior to and during the backfilling of the exposed section. The ~~((results))~~ pipeline company must prepare a report of this inspection ~~((must be documented))~~ and its results and ~~((maintained))~~ maintain that report for the life of the pipeline.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-530 Right of way inspections. The pipeline company must schedule right of way inspections (~~((must be scheduled))~~) at least once each calendar week. If weather impedes the ability to conduct a fly-over inspection for a consecutive two week period, the weather condition must be noted and the pipeline company must inspect the right of way inspection (~~((must be driven or walked))~~) by motor vehicle or walking the area, within ~~((the))~~ a two week period.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-540 Pipeline markers and above ground facilities. The pipeline company must place proper pipeline markers (~~((must be placed where hazardous liquid pipelines))~~) wherever the line pipe and any associated facilities are exposed. For all (~~((hazardous liquid))~~) pipelines attached to bridges or otherwise spanning an area, the pipeline company must (~~((have))~~) place pipeline markers so that they are visible and readable at both ends of the suspended pipeline. Each (~~((operator))~~) pipeline company must inspect (~~((#))~~) each marker(s) annually (~~((Pipeline))~~), and within thirty days of each inspection, replace each marker(s) that (~~((are found))~~) is damaged or missing (~~((must be replaced within thirty days))~~).

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-550 Change in class location. (~~((Companies))~~) Each pipeline company complying with WAC 480-75-360 and 480-75-370 must reevaluate ~~((their))~~ its maximum operating pressure when there is a change in class location. The pipeline company must reevaluate the class location (~~((must be reevaluated))~~) periodically, but not less often than once every five years.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-600 Maps, drawings, and records of hazardous liquid facilities. (1) (~~((All companies))~~) Each pipeline company must prepare, maintain, and provide to the commission ~~((s))~~ upon request, copies of maps, drawings, and records that pertain to the pipeline company's hazardous liquid pipeline (~~((facilities))~~). (~~((The maps, drawings, and records))~~) These documents must be of sufficient scale and detail (~~((as is necessary))~~) to show the size and type of material of all facilities.

(2) Each pipeline company must make books, records, reports, and other information available to the commission, so the commission or its authorized representatives can determine whether pipeline the company is in compliance with state and federal regulations.

(3) (~~((When pipeline facilities are modified,))~~) The pipeline company shall assure that all construction records, (revis-
ion to)) maps, and operating history documents are current
and made available to appropriate pipeline operations person-
nel (~~((must be updated within six months))~~).

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-610 Reporting requirements for proposed construction. (1) At least forty-five days (~~((prior to))~~) before starting any major construction of any (~~((hazardous liquid))~~) pipeline intended to be operated at twenty percent or more of the specified minimum yield strength of the pipe used, (~~((a report))~~) the pipeline company must (~~((be filed))~~) file a report with the commission setting forth the proposed route and the specifications for such pipeline. (~~((The forty-five day reporting requirement may be waived in the event of an emergency. In the event of an emergency, the company must notify the commission as soon as practical.))~~) The report must include, but is not limited to, the following items:

(a) Description and purpose of the proposed ~~((pipeline))~~ construction;

(b) Pipe specifications and route map;

(c) Maximum operating pressure for which the pipeline is being constructed;

(d) Location and construction details of all river crossings or other unusual construction requirements encountered en route; i.e., places where pipe will be exposed or it is impractical to provide required cover, bridge crossings, lines to be laid parallel to railroads or state highways and encroachments, and other areas requiring special or unusual design and construction considerations;

(e) Corrosion control plan that includes the specifications for coating and for wrapping;

(f) Welding specifications and welding inspection methods and procedures required during construction of the pipeline;

(g) Required bending procedures; and

(h) Location and specification of all mainline block valves indicating whether the valves will be operated by manual or remote control. Indicate other auxiliary equipment to be installed as a part of the pipeline system to be constructed.

(2) For pipelines operating under twenty percent specified minimum yield strength, (~~((companies))~~) a pipeline company must submit to the commission a written notice at least forty-five days prior to the proposed construction. The notice must include a project description and timeline.

(3) The commission may waive the forty-five-day reporting requirement in an emergency.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-620 Pressure testing reporting requirements. If a pipeline company uses pressure testing (~~((is to be used))~~) as part of an effort to increase the maximum operating pressure of ~~((#))~~ the pipeline, (companies)) the pipeline com-

pany must file a report with the commission at least forty-five days prior to pressure testing. The report must include the change in the maximum operating pressure and ~~((include the))~~ information ~~((required to qualify the pipeline for))~~ justifying a higher operating pressure.

AMENDATORY SECTION (Amending Docket PL-061026, General Order R-541, filed 4/4/07, effective 5/5/07)

WAC 480-75-630 Incident reporting. (1) ~~((Every))~~ Each pipeline company must give ~~((prompt))~~ telephonic notice to the commission within two hours of discovery of an incident involving that company's pipeline, such as a release of a hazardous liquid ~~((resulting)), that results in:~~

- (a) A fatality;
- (b) Personal injury requiring hospitalization;
- (c) Fire or explosion not intentionally set by the ~~((operator))~~ pipeline company;
- (d) Spills of five gallons or more of product from the pipeline;
- (e) Damage to the property of the pipeline company and others of a combined total cost exceeding twenty-five thousand dollars (automobile collisions and other equipment accidents not involving hazardous liquid or hazardous-liquid-handling equipment need not be reported under this rule);
- (f) A significant occurrence in the judgment of the pipeline company, even though it does not meet the criteria of (a) through (e) of this subsection;
- (g) The news media reports the occurrence, even though it does not meet the criteria of (a) through (f) of this subsection.

(2) Each pipeline company that has an incident described in subsection (1) of this section shall send a written report ~~((must be sent))~~ to the commission within ~~((one month))~~ thirty calendar days of the incident. The report must include the following:

- (a) Name(s) and address(es) of any person or persons injured or killed or whose property was damaged;
- (b) The extent of injuries and damage;
- (c) A description of the incident including date, time, and place;
- (d) A description and maximum operating pressure of the ~~((hazardous liquid facilities))~~ pipeline implicated in the incident and the system operating pressure at the time of the incident;
- (e) The date and time the ~~((hazardous liquid facility))~~ pipeline returns to safe operations; and
- (f) The date, time, and type of any temporary or permanent repair.

(3) ~~((An operator))~~ A pipeline company must give the commission telephonic notification within twenty-four hours of emergency situations including emergency shutdowns, material defects, or physical damage that impairs the serviceability of the pipeline.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

WAC 480-75-640 Depth-of-cover survey. For pipelines constructed after April 1, 1970~~((Every five years)),~~

each pipeline company must conduct a depth-of-cover survey~~((s must be conducted))~~ in its pipeline rights of way every five years to ensure the minimum depth-of-cover as required by subsections (1) and (2) of this section has been maintained for the entire pipeline. In areas subject to erosion and subsoiling, the survey ~~((period is))~~ must be conducted every three years.

(1) Unless specifically exempted in this section, each pipeline company must bury all pipe ~~((must be buried))~~ so that it is below the level of cultivation. Except as provided in subsection (2) of this section, the pipe must be installed so that the cover between the top of the pipe and the ground level, road bed, river bottom, or sea bottom, as applicable, complies with the following table:

| Location | Cover (inches) For normal excavation | Cover (inches) For rock excavation |
|--|--------------------------------------|------------------------------------|
| Industrial, commercial, and residential areas | 36 | 30 |
| Crossings of inland bodies of water with a width of at least 100 ft. from high water mark to high water mark | 48 | 18 |
| Drainage ditches at public roads and railroads | 36 | 36 |
| Deepwater port safety zone | 48 | 24 |
| Any other area | 30 | 18 |

Note: Rock excavation is any excavation that requires blasting or removal by equivalent means.

(2) ~~((Less))~~ Cover less than the minimum required by subsection (1) of this section may be used if:

- (a) It is impracticable for the pipeline company to comply with the minimum cover requirements; and
- (b) The pipeline company provides additional protection ~~((is provided that is))~~ equivalent to the minimum required cover.

AMENDATORY SECTION (Amending Docket PL-061026, General Order R-541, filed 4/4/07, effective 5/5/07)

WAC 480-75-650 Annual reports. ~~((Operators))~~ Each pipeline company must file with the commission the following ~~((annual))~~ reports ~~((with the commission))~~ no later than ~~((April 1 for))~~ June 15 of each year, applicable to the preceding calendar year:

- (1) A copy of Pipeline and Hazardous Materials Safety Administration (PHMSA) F-7000.1-1 annual report required by the PHMSA, Office of Pipeline Safety.
- (2) A report titled, "Hazardous Liquid Annual Report Form" which can be obtained from the Pipeline Safety Sec-

tion of the commission. The annual report must include in detail the following information:

- (a) Interstate and intrastate pipeline mileage in Washington state; and
- (b) A list of reportable and nonreportable safety-related conditions as defined in 49 CFR Section 195.55.

AMENDATORY SECTION (Amending Docket No. TO-000712, General Order No. R-500, filed 8/26/02, effective 9/26/02)

~~**WAC 480-75-660 ((Operations safety plan requirements)) Procedural manual for operations, maintenance, and emergencies.**~~ (1) ~~Each pipeline company must prepare ((an operations safety plan (plan) that demonstrates the pipeline system is designed, constructed, operated, and periodically modified to provide for protection of the public and the environment. Facility operations must follow the plan. The plan must be thorough and contain enough information, analysis, and supporting documentation to demonstrate the company's ability to meet the requirements of this chapter. The plan may be incorporated into a company's existing operation, maintenance, or emergency plan as required by 49 CFR 195.402.~~

~~(2) A log sheet must be included in the plan to record amendments. The log sheet must include the date the old section was eliminated, any new sections that were added, the date, the initials of the individual making the change, and the signature of the person responsible for reviewing the amendment. A description of the amendment(s) and its purpose must be included.~~

~~(a) At a minimum, the plan must include the following:~~

- ~~(i) The requirements in chapter 480-75-WAC;~~
- ~~(ii) A schedule of inspection and testing of all the mechanical components and electronic components within the pipeline system;~~
- ~~(iii) Structural integrity of all pipelines determined through pressure testing, in-line inspection surveys, or other appropriate techniques;~~
- ~~(iv) Failsafe systems including emergency shutdown and isolation procedures;~~
- ~~(v) Emergency management training for operators;~~
- ~~(vi)) and follow a procedural manual that includes the following:~~

~~(a) Procedures required in 49 CFR Section 195.402;~~

~~(b) Procedures for responding to earthquakes ((that must include)), including a threshold for line shutoff, and procedures for integrity monitoring prior to restart; and~~

~~((vii)) (c) Procedure for assessing the potential for impacts on the pipeline system due to landslides. ((Operators)) Pipeline companies with facilities located within potential landslide areas must develop monitoring and remediation procedures for ensuring that pipeline integrity is maintained in these areas.~~

~~((3) Companies must submit a plan to the commission within twelve months after the adoption of this rule. New companies must submit a plan to the commission no later than sixty days prior to startup.~~

The plan must be submitted to:

Washington Utilities and Transportation Commission
Pipeline Safety Division
P.O. Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250

~~(4) Amendments to the plan must be submitted to the commission within thirty days of the change.~~

~~(5) Companies must ensure that appropriate personnel are trained and familiar with the plan's content.) (2) Each pipeline company shall submit a copy of its current procedural manual to the commission and must submit any revisions to the procedural manual to the commission within thirty days of the procedural manual change. A new pipeline company must submit its procedural manual no later than sixty days prior to startup.~~

AMENDATORY SECTION (Amending Docket A-060464, General Order No. R-535, filed 6/28/06, effective 7/29/06)

WAC 480-75-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **Title 49 Code of Federal Regulations**, cited as 49 CFR, Parts 195 and 199 including all appendices and amendments except for 49 CFR Sections 195.0((:)) and 195.1, and 49 CFR Sections 199.1 and 199.2, published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October 1, ~~((2005))~~ 2007.

(b) This publication is referenced in WAC 480-75-370 (Design factor (*F*) for steel pipe), WAC 480-75-630 (Incident reporting), and WAC 480-75-660 (Operations safety plan requirements).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(2) **The American Society of Mechanical Engineers (ASME) B31.4, 1998 edition.**

(a) This publication is referenced in WAC 480-75-350 (Design specifications for new pipeline projects), WAC 480-75-440 (Pipeline repairs), and WAC 480-75-450 (Construction specifications).

(b) Copies of ASME B31.4 are available from The American Society of Mechanical Engineers, Park Avenue New York, New York.

(3) The 2001 edition of **Section IX of the ASME Boiler and Pressure Vessel Code.**

(a) This publication is referenced in WAC 480-75-430 (Welding procedures).

(b) Copies of *Section IX of the ASME Boiler and Pressure Vessel Code* are available from The American Society of Mechanical Engineers, Park Avenue, New York, New York.

(4) The commission adopts **American Petroleum Institute (API) standard 1104** 19th edition.

(a) This publication is referenced in WAC 480-75-430 (Welding procedures) and WAC 480-75-460 (Welding inspection requirements).

(b) Copies of API standard 1104 19th edition are available from the Office of API Publishing Services in Washington DC.

(5) The commission adopts **API RP standard 1117** Second Edition, August 1996.

(a) This publication is referenced in WAC 480-75-500 (Moving and lowering hazardous liquid pipelines).

(b) Copies of API standard 1117 Second Edition are available from Global Engineering Documents in Englewood, Colorado.

WSR 08-12-046
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket PG-070975, General Order R-549—Filed May 30, 2008, 3:20 p.m., effective June 30, 2008]

In the matter of amending chapter 480-93 WAC, relating to Gas companies—Safety.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 08-07-081, filed with the code reviser on March 19, 2008. The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.060, and 81.88.040.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts this rule on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 To avoid unnecessary duplication in the record of this docket, the commission designates the discussion in this order, including appendices, as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda preceding the filing of the CR-102 proposal and the adoption hearing. Together, these documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

6 REFERENCE TO AFFECTED RULES: This order amends the following sections of the Washington Administrative Code: WAC 480-93-005 Definitions, 480-93-007 Application of rules, 480-93-008 Additional requirements, 480-93-013 Covered tasks, 480-93-015 Odorization of gas, 480-93-

017 Filing requirements for design, specification, and construction procedures, 480-93-018 Records, 480-93-020 Proximity considerations, 480-93-040 Location of gas compressor stations on gas pipelines, 480-93-080 Welder and plastic joiner identification and qualification, 480-93-100 Valves, 480-93-110 Corrosion control, 480-93-115 Casing of pipelines, 480-93-124 Pipeline markers, 480-93-130 Multistage pressure regulation, 480-93-140 Service regulators, 480-93-155 Increasing maximum allowable operating pressure, 480-93-160 Reporting requirements of proposed construction, 480-93-170 Tests and reports for pipelines, 480-93-175 Moving and lowering metallic gas pipelines, 480-93-178 Protection of plastic pipe, 480-93-180 Plans and procedures, 480-93-185 Gas leak investigation, 480-93-186 Leak evaluation, 480-93-18601 Leak classification and action criteria—Grade—Definition—Priority of leak repair, 480-93-187 Gas leak records, 480-93-188 Gas leak surveys, 480-93-200 Reporting requirements for operators of gas facilities, 480-93-223 Civil penalty for violation of RCW 80.28.210 and commission gas safety rules, 480-93-230 Exemptions from rules in chapter 480-93 WAC, 480-93-240 Annual pipeline safety fee methodology, 480-93-250 Damage prevention, and 480-93-999 Adoption by reference.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed preproposal statements of inquiry (CR-101) on July 26, 2007, at WSR 07-16-060 and on October 24, 2007, at WSR 07-21-147.

8 The statements advised interested persons that the commission was considering entering a rule making for chapter 480-93 WAC, Gas companies—Safety, amending the rules to reflect changes in Title 81 RCW resulting from the passage of SSB 5225 during the 2007 legislative session. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notices to all regulated pipeline companies and the commission's list of regulatory attorneys. Pursuant to the notices, the commission received written comments.

9 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on March 19, 2008, at WSR 08-07-081. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 08-07-081 at 1:30 p.m., Thursday, May 15, 2008, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

10 WRITTEN COMMENTS: The commission received written comments from the Northwest Gas Association suggesting several clerical changes and questioning the retention of a cross-reference to a federal regulation. The commission finds these suggested changes appropriate and includes the changes in the rules contained in Appendix A, shown below, and made part of, this order.

11 RULE-MAKING HEARING: The commission considered the proposed rules for adoption at a rule-making hearing on May 15, 2008, before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. No oral comments were made at the hearing.

12 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and adopt the rules as proposed in the CR-102 with changes from the text noticed at WSR 08-07-081, as discussed in this order.

13 CHANGES FROM PROPOSAL: The commission adopts the proposal with the following changes from the text noticed at WSR 08-07-081:

- WAC 480-93-005 Definitions: Revised the last sentence of the definition of "gas pipeline company" as follows: "that contract with a gas pipeline company"
- WAC 480-93-185 Gas leak investigation: Revised subsection (3) as follows: When leak indications are found to originate from a foreign source (for example, a gasoline tank, a sewer, a marsh, or customer-owned piping), and the situation is ongoing and potentially hazardous, the gas pipeline company must: 1) take appropriate action regarding its own facilities to protect life and property; and 2) report the leak promptly to the source facility owner or operator and, where appropriate, to the police department, fire department, or other appropriate governmental agency.
- WAC 480-93-240 Annual pipeline safety fee: Revised subsection (1) as follows: This rule sets forth the commission's fee methodology for the annual regulatory fee paid by a gas pipeline company as that term is defined in RCW 81.88.010 and hazardous liquid pipelines as that term is defined in RCW 81.88.010. For the purposes of this section, a gas pipeline company is called "company" or "companies" and the "commission's pipeline safety program" means the pipeline safety program that includes each company.

14 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that chapter 480-93 WAC should be amended to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 30, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

ORDER

15 THE COMMISSION ORDERS:

16 The commission amends chapter 480-93 WAC to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

17 This order and the rules set out below, after being recorded in the register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and 1-21 WAC.

DATED at Olympia, Washington, May 29, 2008.

Washington State Utilities and Transportation Commission

Mark H. Sidran, Chairman
Patrick J. Oshie, Commissioner
Philip B. Jones, Commissioner

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-005 Definitions. (1) "**Bar hole**" means a hole made in the soil or paving for the specific purpose of testing the subsurface atmosphere with a combustible gas indicator.

(2) "**Building**" means any structure that is normally or occasionally entered by humans for business, residential, or other purposes and where gas could accumulate.

(3) "**Business district**" means an area where the public regularly congregates or where the majority of the buildings on either side of the street are regularly utilized, for financial, commercial, industrial, religious, educational, health, or recreational purposes.

(4) "**CFR**" means the Code of Federal Regulations.

(5) "**Combustible gas indicator (CGI)**" means a device capable of detecting and measuring gas concentrations in air.

(6) "**Commission**" means the Washington utilities and transportation commission.

(7) "**Enclosed space**" means any subsurface structure of sufficient size that could accommodate a person and within which gas could accumulate, e.g., vaults, catch basins, and manholes.

(8) "**Emergency notification line**" means 1-888-321-9146.

(9) "**Follow-up inspection**" means an inspection performed after a repair has been completed in order to determine the effectiveness of the repair.

~~((9))~~ (10) "**Gas**" means natural gas, flammable gas, or gas that is toxic or corrosive.

~~((10))~~ (11) "**Gas associated substructures**" means those devices or facilities utilized by ~~((an operator))~~ a gas pipeline company which are not intended for storing, transporting, or distributing gas, such as valve boxes, vaults, test boxes, and vented casing pipe.

~~((11))~~ (12) "**Gas pipeline**" means all parts of a pipeline facility through which gas moves in transportation, including, but not limited to, line pipe, valves, and other

appurtenances connected to line pipe, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies. "Gas pipeline" does not include any pipeline facilities, other than a master meter system, owned by a consumer or consumers of the gas, located exclusively on the consumer or consumers' property, and none of the gas leaves that property through a pipeline.

(13) "Gas pipeline company" means (as defined in RCW 80.04.010, every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state) a person or entity constructing, owning or operating a gas pipeline for transporting gas. "Gas pipeline company" includes a person or entity owning or operating a master meter system. "Gas pipeline company" does not include excavation contractors or other contractors that contract with a gas pipeline company.

((12)) (14) "High occupancy structure or area" means a building or an outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by twenty or more persons on at least five days a week for ten weeks in any twelve-month period. (The days and weeks need not be consecutive.)

((13)) (15) "Indication" means a response indicated by a gas detection instrument that has not been verified as a reading.

((14)) (16) "LEL" means the lower explosive limit of the gas being transported.

((15)) (17) "Line pipe" or "pipe" means a tube, usually cylindrical, through which a hazardous liquid or gas is transported from one point to another.

(18) "MAOP" means maximum allowable operating pressure.

((16)) (19) "Master meters system" ((is defined as set forth in 49 CFR § 191.3)) means a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by any other means, such as by rents.

((17) "Operator":

(a) For purposes of chapter 480-93 WAC, the term "operator" means:

(i) Every gas distribution company that has tariffs on file with the commission;

(ii) Every city or town that owns, controls, operates, or manages any gas plant in this state; and

(iii) Every other person or corporation transporting gas by pipeline, or having for one or more of its principal purposes the construction, maintenance, or operation of pipelines for transporting gas in this state; even though such person or corporation does not deliver, sell, or furnish any such gas to any person or corporation within this state. The terms "person" and "corporation" are defined in RCW 80.04.010. "Transporting gas by pipeline" means transmission or distribution of gas through a pipe.

(b) A single entity may qualify as an operator under one or more of the provisions of this subsection.

(c) The term "operator" includes operators of master meter systems, as defined in this section.

(18)) (20) "Prompt action" means to dispatch qualified personnel without undue delay.

((19)) (21) "Psig" means pounds per square inch gauge.

((20) "Public service company" is defined in RCW 80.04.010.

(21)) (22) "Reading" means a repeatable representation on a combustible gas indicator or equivalent instrument expressed in percent LEL or gas-air ratio.

((22)) (23) "Record(s)" means any electronic or paper document, map, data base, report or drawing created by or kept by ((an operator)) a gas pipeline company.

((23)) (24) "Sniff test" means a qualitative test utilizing both threshold and readily detectable methods for determining proper concentrations of odorant.

((24)) (25) "Transmission line" means a gas pipeline as defined in 49 CFR § 192.3 on the date specified in WAC 480-93-999.

((25)) (26) "Weak link" means a device or method used when pulling polyethylene pipe to ensure that damage will not occur to the pipeline by exceeding the maximum tensile stresses allowed.

((26)) (27) Other terms that correspond to those used in 49 CFR Parts 191, 192 and 199 (Minimum Federal Safety Standards for Gas Pipelines) must be construed as used therein on the date specified in WAC 480-93-999.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-007 Application of rules—Responsibility for contractors. (1) This chapter applies to the following activities of ((operators)) each gas pipeline company: The construction, operation, maintenance, and safety of gas facilities used in the gathering, storage, distribution, and transmission of gas in this state.

(2) ((This chapter does not apply to customer-owned facilities, where the customer is the end user, and the customer-owned facilities are on the customer's side of the distribution meter. Customer-owned transmission lines are subject to the rules in this chapter.

(3)) This chapter, with the exception of WAC 480-93-240, does not apply to ((those operators of gas facilities)) gas pipeline systems exclusively under federal jurisdiction for compliance with pipeline safety regulations.

(3) While the commission's gas pipeline safety statutes and rules impose obligations on each gas pipeline company, a gas pipeline company may contract with a person to do tasks that are subject to these rules, such as excavation, construction, and maintenance. If the gas pipeline company's contractor (or any of its subcontractors) engages in conduct that violates commission rules applicable to the gas pipeline company, the gas pipeline company is subject to penalties and all other applicable remedies, as if the gas pipeline company itself engaged in that conduct.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-008 Additional requirements. (1) These rules do not relieve any ~~((operator))~~ gas pipeline company from any of its duties and obligations under the laws of the state of Washington.

(2) The commission retains the authority to impose additional or different requirements on any ~~((operator))~~ gas pipeline company in appropriate circumstances, consistent with the requirements of law.

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-013 Covered tasks. (1) Background. 49 CFR §§ 192.803 through 192.809 prescribe the requirements associated with qualifications for ~~((operator))~~ gas pipeline company personnel to perform "covered tasks." 49 CFR § 192.801 ~~((defines))~~ contains a definition of "covered task." In WAC 480-93-999, the commission adopts 49 CFR §§ 192.801 through 192.809. ~~((2))~~ However, in this section, the commission includes "new construction" in the definition of "covered task."

(2) Accordingly, for the purpose of this chapter, the commission defines a covered task that will be subject to the requirements of 49 CFR §§ 192.803 through 192.809 as an activity, identified by the ~~((operator))~~ gas pipeline company, that:

- (a) Is performed on a gas pipeline ~~((facility))~~;
- (b) Is an operations, maintenance, or new construction task;
- (c) Is performed as a requirement of Part 192 CFR; and
- (d) Affects the operation or integrity of the gas pipeline.

(3) In all other respects, the requirements of 49 CFR §§ 192.801 through 192.809 apply to this chapter.

(4) The equipment and facilities used by a gas pipeline company for training and qualification of employees must be similar to the equipment and facilities on which the employee will perform the covered task.

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-015 Odorization of gas. (1) ~~((Operators transporting gas by pipeline))~~ Each gas pipeline company must odorize the gas in its pipeline at a concentration in air of at least one-fifth of the lower explosive limit, so that the gas is readily detectable by a person with a normal sense of smell.

(2) ~~((Operators))~~ Each gas pipeline company must use an odorant testing instrument when conducting sniff tests. Sniff tests must be performed at least once monthly. Master meter ~~((operators who))~~ systems that comply with 49 CFR § 192.625(f) are exempt from this requirement.

(3) ~~((Operators))~~ Each gas pipeline company must take prompt action to investigate and remediate odorant concentrations that do not meet the minimum requirements of subsection (1) of this section.

(4) ~~((Operators))~~ Each gas pipeline company must follow the odorant testing instrument manufacturer's recommendations for maintaining, testing for accuracy, calibrating and operating ~~((odorant testing))~~ such instruments. When the manufacturer does not provide a recommendation, ~~((operators))~~ each gas pipeline company must conduct accuracy checks and calibrate such instruments at least once annually, if the instrument is outside specified tolerances ~~((at least once annually))~~.

(5) ~~((Operators))~~ Each gas pipeline company must keep all records of odorant usage, sniff tests performed, and odorant testing instrument calibration for five years.

(6) Exception. This rule does not apply to gas pipelines ~~((that transport gas))~~ where the odorant would make the gas unfit for its intended purpose.

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-017 Filing requirements for design, specification, and construction procedures. (1) Any ~~((operator))~~ gas pipeline company intending to construct or operate a gas pipeline ~~((facility))~~ in this state must file all applicable construction procedures, designs, and specifications used for each gas pipeline ~~((facility))~~ with the commission at least forty-five days prior to the initiation of construction activity. All procedures must detail the acceptable types of materials, fittings, and components for the different types of facilities in the ~~((operator's))~~ gas pipeline company's system.

(2) ~~((With the exception of))~~ Except in an emergency ~~((situations))~~, a gas pipeline company must submit to the commission for review, at least forty-five days prior to construction, any construction plans that do not conform with a gas pipeline company's existing and accepted construction procedures, designs, and specifications on file with the commission ~~((must be submitted to the commission for review at least forty-five days prior to the initiation of construction activity))~~.

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-018 Records. (1) ~~((Operators))~~ Each gas pipeline company must maintain records sufficient to demonstrate compliance with all requirements of 49 CFR §§ 191, 192 and chapter 480-93 WAC.

(2) ~~((Operators))~~ Each gas pipeline company must give the commission access to records for review during an inspection and must provide the commission copies of ~~((requested))~~ records upon request.

(3) ~~((Operators))~~ Each gas pipeline company must maintain a list of forms and data bases, including examples where applicable, that specify what records the ~~((operator))~~ company maintains. ~~((Operators))~~ Each gas pipeline company must make this list available to the commission upon request.

(4) ~~((Operators))~~ Each gas pipeline company must record and maintain records of the actual value of any required reads, tests, surveys or inspections performed. The

records must include the name of the person who performed the work and the date the work was performed. The records must also contain information sufficient to determine the location and facilities involved. Examples of the values to be recorded include, but are not limited to, pipe to soil potential reads, rectifier reads, pressure test levels, and combustible gas indicator reads. A gas pipeline company may not record a range of values ~~((may not be recorded))~~ unless the measuring device being used provides only a range of values.

(5) ~~((Operators))~~ Each gas pipeline company must update its records within six months of ~~((completion of))~~ when it completes any construction activity and make ~~((them))~~ such records available to appropriate company operations personnel.

(6) If ~~((an operator))~~ a gas pipeline company believes a record provided to the commission is confidential as that term is defined in WAC 480-07-160(2), the ~~((operator will))~~ gas pipeline company must follow the procedures in WAC 480-07-160 for designating and treating that record as confidential.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-020 Proximity considerations. (1) Each ~~((operator))~~ gas pipeline company must submit a written request and receive commission approval prior to:

(a) Operating any gas pipeline ~~((facility))~~ at greater than five hundred psig ~~((that))~~ if the gas pipeline is within five hundred feet of any of the following places:

(i) A building that is in existence or under construction prior to the date authorization for construction is filed with the commission, ~~((and that))~~ if the building is not owned and used by the petitioning ~~((operator))~~ gas pipeline company in its gas operations; or

(ii) A high occupancy structure or area that is in existence or under construction prior to the date authorization for construction is filed with the commission; or

(iii) A public highway, as defined in RCW 81.80.010(3).

(b) Operating any gas pipeline ~~((facility))~~ at greater than two hundred fifty psig, up to and including five hundred psig, ~~((that))~~ if the gas pipeline is ~~((operated))~~ within one hundred feet of either of the following places:

(i) A building that is in existence or under construction prior to the date authorization for construction is filed with the commission, ~~((and that))~~ if the building is not owned and used by the petitioning ~~((operator))~~ gas pipeline company in its gas operations; or

(ii) A high occupancy structure or area that is in existence or under construction prior to the date authorization for construction is filed with the commission.

(2) For proposed new construction of pipelines having the characteristics listed in subsection (1)(a) or (b) of this section, ~~((operators))~~ each gas pipeline company must ~~((provide documentation proving))~~ demonstrate to the commission that it is not practical for the gas pipeline company to select an alternate route that will avoid such locations and ~~((further provide documents that demonstrate))~~ that the ~~((operator))~~ gas pipeline company has considered the possibility of the

future development of the area and has designed ~~((their))~~ its gas pipeline ~~((facilities))~~ accordingly.

(3) During the review process, ~~((operators))~~ each gas pipeline company must provide maps and records to the commission showing the exact location of the gas pipeline and the shortest direct distance to the places described in subsection (1)(a) and (b) of this section. Upon request of the commission, the ~~((operator))~~ gas pipeline company must provide the maintenance, construction, and operational history of the pipeline system and an aerial photograph showing the exact location of the gas pipeline in reference to places listed in subsection (1)(a) and (b) of this section.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-040 Location of gas compressor stations on gas pipelines. (1) Each gas pipeline company must locate gas compressor stations that are designed to operate at pressures in excess of two hundred fifty psig, and that have an installed capacity equal to or greater than one thousand horsepower, ~~((must be located))~~ at least five hundred feet away from any existing buildings that are not under the gas pipeline company's control ~~((of the operator))~~.

(2) Each gas pipeline company must locate gas compressor stations that are designed to operate at pressures in excess of two hundred fifty psig, and that have an installed capacity of less than one thousand horsepower ~~((must be located))~~ at least two hundred fifty feet away from any existing buildings that are not under the gas pipeline company's control ~~((of the operator))~~.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-080 Welder and plastic joiner identification and qualification. (1) All welding procedures and welders, except welders listed in (a) of this subsection, must be qualified to API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code.

(a) Oxyacetylene welders may qualify under 49 CFR § 192 Appendix C, but may only weld the following size pipe:

(i) Nominal two-inch or smaller branch connections to nominal six-inch or smaller main or service pipe.

(ii) Nominal two-inch or smaller below ground butt welds.

(iii) Nominal four-inch or smaller above ground manifold and meter piping operating at 10 psig or less.

~~((+))~~ (b) Appendix C welders must be requalified at least twice annually, but not to exceed seven and one-half months between qualification tests.

~~((+))~~ (c) When testing welders or qualifying procedures, ~~((operators))~~ each gas pipeline company must use the ~~((necessary))~~ testing equipment necessary to measure the amperage, voltage, and speed of travel. All essential variables, as defined by the applicable procedure, must be recorded and documented as performed during the welder and procedure testing.

~~((e))~~ (d) For the purposes of ~~((b))~~ (c) of this subsection, "essential variable" is defined as any variable in the welding procedure, which, according to the procedure being used, would require the requalification of the procedure if changed from or performed outside a specified range. "Speed of travel" is defined as the actual per pass welding time in minutes divided by the length of the weld in inches.

~~((d))~~ (e) Qualified written welding procedures must be located on-site where welding is being performed.

(2) Personnel qualified to join plastic pipe must be requalified at least once annually, but not to exceed fifteen months between qualifications.

(a) Qualified written plastic joining procedures must be located on-site where plastic joining is being performed.

(b) Plastic joiners must be requalified under an applicable procedure, if during any twelve-month period that person has not made any joints under that procedure.

(c) In order to ensure compliance with (b) of this subsection and Title 49 CFR Part 192.285(c), each ~~((operator))~~ gas pipeline company must either have a method of tracking production joints or requalify each person qualified to join plastic pipe at a frequency not to exceed twelve months. ~~((This))~~ The method used to track production joints must be outlined in the ~~((operator's))~~ gas pipeline company's procedures manual. ~~((Production joints need to be tracked only to the extent that shows compliance with this requirement. Operators may elect not to track production joints, in which case personnel qualified to join plastic pipe must be requalified at a frequency not to exceed twelve months.))~~

(3) Welders and plastic joiners must carry appropriate identification and qualification cards or certificates showing the name of the welder or joiner, their qualifications, the date of qualification and the ~~((operator))~~ gas pipeline company whose procedures were followed for the qualification. Welder and plastic joiner qualification cards are subject to commission inspection at all times when qualified personnel are working on facilities subject to commission jurisdiction.

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-100 Valves. (1) Each ~~((operator))~~ gas pipeline company must have a written valve maintenance program detailing the valve selection process, inspection, maintenance, and operating procedures. The written program must detail which valves will be maintained under 49 CFR § 192.745, 49 CFR § 192.747, and this subsection. The written program must also outline how the ~~((operator))~~ gas pipeline company will monitor and maintain valves during construction projects to ensure accessibility. The following criteria and locations must be incorporated in the written program. The written program shall explain how each of the following are considered in selecting which valves require annual inspections and maintenance under 49 CFR § 192.747:

- (a) Each pressure regulating station.
- (b) Principal feeds into business districts.
- (c) Geographical size of the area to be isolated.
- (d) Number of potential customers affected.
- (e) ~~((Pipeline))~~ Line pipe size and operating pressures.

(f) Class locations.

(g) Potential threats including, but not limited to, earthquakes, floods, and landslides.

(h) Emergency response time.

(i) High occupancy structures or areas.

(j) ~~((Pipeline))~~ Line pipe material: For example steel, polyethylene, or cast iron.

(2) Each ~~((operator))~~ gas pipeline company must have a written service valve installation and maintenance program detailing the valve selection process, inspection, maintenance, and operating procedures. The written program must detail which new services will be required to have valves installed and maintained under this section. Service valve installation requirements do not apply to existing services (they are not retroactive). Existing service valves that historically have not been maintained but are deemed necessary for maintenance by the written valve maintenance program must be maintained in accordance with subsection (3) of this section (service valve maintenance requirements are retroactive). The written program shall explain how each of the following criteria and/or locations are considered in selecting which services will have valves installed and/or maintained under this ~~((section))~~ subsection:

(a) Services to churches, schools, hospitals.

(b) Service line length and size.

(c) Service line pressure.

(d) Services to buildings occupied by persons who are confined, are of impaired mobility, or would be difficult to evacuate.

(e) Services to commercial or industrial buildings or structures.

(f) Services to high occupancy structures or areas.

(3) All service valves selected for inspection in the program required in subsection (2) of this section must be operated and maintained at least once annually, but not to exceed fifteen months between operation and maintenance.

(4) Each ~~((operator))~~ gas pipeline company must select which valves to inspect based on the unique operating conditions of the ~~((operator's))~~ company's pipeline system(s).

(5) Each ~~((operator))~~ gas pipeline company must install and maintain valves for the purpose of minimizing the hazards resulting from a gas pipeline emergency and to aid in the timely control of an uncontrolled release of gas. In determining the minimum number and spacing of valves, the ~~((operator's))~~ gas pipeline company's primary objective shall be the protection of life and property. The ~~((operator))~~ gas pipeline company must consider this objective in conjunction with the criteria listed in subsections (1) and (2) of this section. ~~((Operators))~~ Each gas pipeline company must also incorporate ~~((their))~~ its valve programs established in subsections (1) and (2) of this section into their emergency plan and other plans and procedures designed to protect life and property in the event of an emergency.

(6) ~~((Operators))~~ Each gas pipeline company must fully implement the requirements of this section within one year of the adoption date of this rule.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-110 Corrosion control. (1) ~~((Operators))~~ Each gas pipeline company must record and retain a record of each cathodic protection test, survey, or inspection required by 49 CFR Subpart I, and chapter 480-93 WAC. Each gas pipeline company must keep all records of each test, survey, or inspection ~~((must be kept))~~ for a minimum of five years, except those records specified in 49 CFR § 192.491(c) ~~((requiring retention))~~ which the gas pipeline company must retain for the life of the gas pipeline facility.

(2) Each ~~((operator))~~ gas pipeline company must complete remedial action within ninety days to correct any cathodic protection deficiencies known and indicated by any test, survey, or inspection. An additional thirty days may be allowed for remedial action if due to circumstances beyond the ~~((operator's))~~ gas pipeline company's control ~~((it is not possible to))~~ the company cannot complete remedial action within ninety days. Each ~~((operator))~~ gas pipeline company must be able to provide documentation to the commission indicating that remedial action was started in a timely manner and that all efforts were made to complete remedial action within ninety days. (Examples of circumstances allowing ~~((operators))~~ each gas pipeline company to exceed the ninety-day time frame include right of way permitting issues, availability of repair materials, or unusually long investigation or repair requirements.)

(3) Cathodic protection equipment and instrumentation must be maintained, tested for accuracy, calibrated, and operated in accordance with the manufacturer's recommendations. When there are no manufacturer's recommendations, then instruments must be tested for accuracy at an appropriate schedule determined by the ~~((operator))~~ gas pipeline company.

(4) Each ~~((operator's))~~ gas pipeline company's procedures manual must have written procedures explaining how cathodic protection related surveys, reads, and tests will be conducted. Examples of such procedures include, but are not limited to, how to determine IR drop (as defined in 49 CFR § 192 Appendix D), how to conduct electrical surveys, how to test casings for electrical isolation, how to test casings for shorted conditions, and how to measure and interpret 49 CFR § 192 Appendix D criteria.

(5) ~~((Operators))~~ Each gas pipeline company must conduct inspections or tests for electrical isolation between metallic pipeline casings and metallic pipelines at least once annually, but not to exceed fifteen months between inspections or tests. The test or inspection must also determine whether the pipeline has adequate levels of cathodic protection at the casing to pipeline interface. These requirements do not apply to unprotected copper inserted in ferrous pipe.

(a) For each casing installed prior to September 5, 1992, that does not have test leads, the ~~((operator))~~ gas pipeline company must be able to demonstrate that other test or inspection methods are acceptable and that test lead wires are not necessary to monitor for electrical isolation and adequate cathodic protection levels.

(b) Whenever electrical isolation tests or inspections indicate that a possible shorted condition exists between a

casing and a pipeline, the ~~((operator))~~ gas pipeline company must conduct a follow-up test within ninety days to determine whether an actual short exists. The ~~((operator's))~~ gas pipeline company's procedures manual must have a level or threshold that would indicate a potential shorted condition and must also detail the method of determining whether the casing is actually shorted to the pipeline.

(c) The ~~((operator))~~ gas pipeline company must clear the shorted condition where practical.

(d) Whenever a short exists between a ~~((pipeline))~~ line pipe and casing, the ~~((operator))~~ gas pipeline company must perform a leak survey within ninety days of discovery and at least twice annually thereafter, but not to exceed seven and one-half months between leak surveys until the shorted condition is eliminated.

(6) ~~((Operators))~~ Each gas pipeline company must record the condition of all underground metallic facilities each time the facilities are exposed.

(7) ~~((Operators))~~ Each gas pipeline company must have a written program to monitor for indications of internal corrosion. The program must also have remedial action requirements for areas where internal corrosion is detected.

(8) On all cathodically protected pipelines, the ~~((operator))~~ gas pipeline company must take a cathodic protection test reading each time an employee or representative of the ~~((operator))~~ gas pipeline company exposes the facility and the protective coating is removed.

(9) Each ~~((operator))~~ gas pipeline company must have a written atmospheric corrosion control monitoring program. The program must have time frames for completing remedial action.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-115 Casing of ~~((pipelines))~~ line pipes.

(1) Whenever ~~((an operator))~~ a gas pipeline company installs a steel ~~((pipeline))~~ line pipe in a casing, the casing must be bare steel.

(2) For casings installed after September 5, 1992, ~~((operators))~~ each gas pipeline company must attach separate test lead wires to each casing without vents, and to the steel gas pipeline to verify that no electric short exists between the two, and that an adequate level of cathodic protection is applied to the steel ~~((pipeline))~~ line pipe.

(3) Whenever ~~((an operator))~~ a gas pipeline company installs a main or transmission line in a casing or conduit of any type material, the ~~((operator))~~ gas pipeline company must seal the casing ends to prevent or slow the migration of gas in the event of a leak.

(4) Whenever ~~((an operator))~~ a gas pipeline company installs a service line in a casing or conduit, the ~~((operator))~~ gas pipeline company must seal the casing at the end nearest the building wall to prevent or slow the migration of gas towards the building in the event of a leak.

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-124 Pipeline markers. (1) Each gas pipeline company must place pipeline markers (~~((must be placed))~~) at the following locations:

(a) Where practical, over pipelines operating above two hundred fifty psig;

(b) Over mains and transmission lines crossing navigable waterways (custom signage may be required to ensure visibility);

(c) Over mains and transmission lines at river, creek, drainage ditch, or irrigation canal crossings where hydraulic scouring, dredging, or other activity could pose a risk to the pipeline (custom signage may be required to ensure visibility);

(d) Over gas pipelines at railroad crossings;

(e) At above ground gas pipelines (~~((and pipeline facilities-))~~) except service risers (~~((and))~~), meter set assemblies, and (~~((operator))~~) gas pipeline company owned piping downstream of the meter set assembly (~~((are exempt from this requirement))~~). The minimum lettering size requirements located in 49 CFR § 192.707 (d)(1) do not apply to services;

(f) Over mains located in Class 1 and 2 locations;

(g) Over transmission lines in Class 1 and 2 locations, and where practical, over transmission lines in Class 3 and 4 locations; and

(h) Over mains and transmission lines at interstate, U.S. and state route crossings where practical.

(2) (~~((Where markers are required at))~~) If practical, the gas pipeline company must place markers on both sides of any crossing(~~((s))~~) listed in subsection (1) of this section(~~((they must be placed on both sides where practical))~~).

(3) Where markers are required on buried gas pipelines, (~~((operators must, if practical, place them))~~) they must be placed approximately five hundred yards apart and at points of horizontal deflection (~~((of the pipeline))~~) if practical.

(4) Where gas pipelines are attached to bridges or otherwise span an area, (~~((operators))~~) each gas pipeline company must place pipeline markers at both ends of the suspended pipeline. (~~((Operators))~~) Each gas pipeline company must conduct surveys of pipeline markers required by this subsection at least annually, not to exceed fifteen months.

(5) (~~((Operators))~~) Each gas pipeline company must replace markers that are reported damaged or missing within forty-five days.

(6) Surveys of pipeline markers not associated with subsection (4) of this section must be conducted at least every five calendar years but not to exceed sixty-three months, to ensure that markers are visible and legible.

(a) (~~((The operator))~~) Each gas pipeline company must keep on file the last two surveys, or all surveys for the past five years, whichever number of surveys is greater.

(b) Survey records must include a description of the system and area surveyed.

(7) (~~((Operators))~~) Each gas pipeline company must have records such as maps(~~((:))~~) or drawings (~~((or other))~~) sufficient (~~((records indicating))~~) to indicate class locations and other areas where pipeline markers are required.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-130 Multistage pressure regulation.

Where gas pressures are reduced in two or more stages, (~~((an operator))~~) each gas pipeline company must install the necessary regulators and equipment in such a manner as to provide protection between regulator stages. The purpose of this rule is to minimize the potential dangers of failures of one stage of regulator equipment resulting from fire, explosion, or damage of any kind, from adversely affecting the operation of the other stage or stages of regulation. (~~((Operators))~~) Each gas pipeline company must ensure, when practical to do so, that there is a minimum of fifty feet of separation between regulator stages.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-140 Service regulators. (1) (~~((Operators))~~)

To ensure proper operation of service regulators, each gas pipeline company must install, operate, and maintain service regulators in accordance with federal and state regulations, and in accordance with the manufacturer's recommended installation and maintenance practices (~~((to insure proper operation))~~).

(2) (~~((Operators))~~) Each gas pipeline company must inspect and test service regulators and associated safety devices during the initial turn-on, and when a customer experiences a pressure problem. Testing must include determining the gas regulator's outlet set pressure at a specified flow rate. (~~((Operators))~~) Each gas pipeline company must use pressure gauges downstream of the regulator during testing. Safety devices such as fracture discs are not required to be tested.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-155 Increasing maximum allowable operating pressure. (1) If a gas pipeline company wants to uprate to a MAOP greater than sixty psig, the company must submit to the commission for review, at least forty-five days before uprating (~~((to a MAOP greater than sixty psig, each operator must submit to the commission for review))~~), a written plan of procedures including all applicable specifications with drawings of the affected pipeline systems. At a minimum, the plan must include the following:

(a) A list of all affected gas pipeline facilities, including pipes, fittings, valves, and other affected equipment, with the manufacturer's specified maximum operating pressure limits, their specified minimum yield strength (SMYS) at the intended MAOP, and any other applicable specifications or limitations;

(b) Original design and construction standards;

(c) Original pressure test records;

(d) Previous operating pressures identifying the dates and lengths of time at that pressure;

(e) Records of all leaks, regardless of cause, and the dates and methods of repair;

(f) Where the pipeline is being uprated to a MAOP that produces a hoop stress of twenty percent or more of the SMYS, records of the original welding standards and welders;

(g) Maintenance records of all affected regulator stations and system relief valves for the past three years or three most recent inspections, whichever is longer;

(h) Where applicable, relief valve capacities at the proposed MAOP compared to regulator flow capacities, with calculations;

(i) Cathodic protection readings of the affected gas pipeline and facilities, including rectifier readings, for the past three years or three most recent inspections, whichever is longer; and

(j) Any additional information that the commission may deem necessary to evaluate the pressure increase.

(2) Uprates must be based on a previous or current pressure test that will substantiate the intended MAOP.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-160 Reporting requirements of proposed construction. (1) Each ~~((operator))~~ gas pipeline company must file a proposed construction report with the commission at least forty-five days prior to construction or replacement of any segment of a gas transmission pipeline equal to or greater than one hundred feet in length. Emergency repairs are exempt from this section.

(2) The report must describe the proposed route and the specifications for the pipeline and must include, but is not limited to, the following items:

(a) Description and purpose of the proposed pipeline;

(b) Route map showing the type of construction to be used throughout the length of the line, and delineation of class location as defined in 49 CFR Part 192.5, and incorporated boundaries along the route. Aerial photographs must be submitted upon request;

(c) Location and specification of principal valves, regulators, and other auxiliary equipment to be installed as a part of the pipeline system to be constructed ~~((The operator must submit aerial photographs upon request))~~;

(d) MAOP for the gas pipeline being constructed;

(e) Location and construction details of all river crossings or other unusual construction requirements encountered en route, e.g., places where pipe will be exposed or it is impractical to provide required cover, bridge crossings, lines to be laid parallel to railroads or state highways, including encroachments, and any other areas requiring special or unusual design and construction considerations;

(f) Proposed corrosion control program to be followed including specifications for coating and wrapping, and the method to ensure the integrity of the coating using holiday detection equipment;

(g) Welding specifications; and

(h) Bending procedures to be followed if needed.

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-170 Tests and reports for gas pipelines.

(1) ~~((Operators))~~ Each gas pipeline company must notify the commission in writing at least three business days prior to the commencement of any pressure test of a gas pipeline that will have a MAOP that produces a hoop stress of twenty percent or more of the specified minimum yield strength of the pipe used. Pressure test procedures must be on file with the commission or submitted at the time of notification.

(a) The pressure tests of any such gas pipeline built in Class 3 or Class 4 locations, as defined in 49 CFR § 192.5, or within one hundred yards of a building, must be at least eight hours in duration.

(b) When the test medium is to be a gas or compressible fluid, each ~~((operator))~~ gas pipeline company must notify the appropriate public officials so that adequate public protection can be provided for during the test.

(c) In an emergency situation where it is necessary to maintain continuity of service, the requirements of subsection (1) of this section and subsection (1)(a) of this section may be waived by notifying the commission by ~~((telephone))~~ calling the emergency notification line (see WAC 480-93-005(8)) prior to performing the test.

(2) The minimum test pressure for any steel service line or main, regardless of the intended operating pressure, must be determined by multiplying the intended MAOP by a factor determined in accordance with the table located in 49 CFR § 192.619 (a)(2)(ii).

(3) ~~((Operators))~~ Each gas pipeline company must perform pressure tests for all new or replacement gas pipeline installations.

(4) All service lines that are broken, pulled, or damaged, resulting in the interruption of gas supply to the customer, must be pressure tested from the point of damage to the service termination valve (generally the meter set) prior to being placed back into service.

(5) ~~((Operators))~~ Each gas pipeline company may only use pretested pipe when it is not feasible to conduct a pressure test.

(6) ~~((Operators))~~ Each gas pipeline company must perform soap tests at the tie-in joints at not less than the current operating pressure of the gas pipeline.

(7) ~~((Operators))~~ Each gas pipeline company must keep records of all pressure tests performed for the life of the pipeline and must document the following information:

(a) ~~((Operator's))~~ Gas pipeline company's name;

(b) Employee's name;

(c) Test medium used;

(d) Test pressure;

(e) Test duration;

(f) Line pipe size and length;

(g) Dates and times; and

(h) Test results.

(8) Where feasible, ~~((operators))~~ each gas pipeline company must install and backfill plastic pipe prior to pressure testing to expose any potential damage that could have occurred during the installation and backfill process.

(9) ~~((Where))~~ When a gas pipeline company performs multiple pressure tests ~~((are performed))~~ on a single installation, ~~((operators))~~ the gas pipeline company must maintain a record of each test. An example of a single installation with multiple tests would be any continuous on-going job or installation such as a new plat or long main installation where more than one pressure test was conducted during construction.

(10) Pressure testing equipment must be maintained, tested for accuracy, or calibrated, in accordance with the manufacturer's recommendations. When there are no manufacturer's recommendations, then pressure testing equipment must be tested for accuracy at an appropriate schedule determined by the ~~((operator))~~ gas pipeline company. Test equipment must be tagged with the calibration or accuracy check expiration date. The requirements of this section also apply to equipment such as pressure charts, gauges, dead weights or other devices used to test, monitor or check system pressures or set-points.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-175 Moving and lowering metallic gas pipelines. (1) A gas pipeline company may not move or lower cast iron pipe or metallic pipe with mechanical or threaded joints.

(2) Except ~~((those pipelines detailed))~~ for the pipe referenced in subsection (1) of this section, a gas pipeline company may move or lower metallic line pipe with an MAOP of sixty psig or less, which has a nominal diameter of two inches or less, if the gas pipeline company can certify that no undue stresses will be placed on the pipeline and that it can be moved or lowered in a safe manner. The gas pipeline company must consider factors such as the type of materials, proximity to fittings, joints, and welds, and any other factors that could place undue stress on the gas pipeline or create an unsafe condition.

(3) Before moving or lowering a gas pipeline other than the line pipe described in subsection ~~((3))~~ (2) of this section, each ~~((operator))~~ gas pipeline company must prepare a study ~~((prior to moving or lowering any metallic pipeline))~~ to determine whether ~~((the proposed action))~~ moving or lowering will cause an unsafe condition. ~~((This study))~~ The gas pipeline company's engineering department must ~~((be reviewed and approved by the operator's engineering department and retained in the operator's files))~~ review, approve, and retain the study for the life of the pipeline. ~~((This requirement does not apply to cast iron pipelines, which may not be lowered, or to copper pipelines.))~~ The study must ~~((include, but is not limited to, the following criteria))~~ analyze the following factors:

- (a) The required deflection of the pipe;
- (b) The diameter, wall thickness, and grade of pipe;
- (c) The characteristics of the pipeline;
- (d) The terrain and class location;
- (e) The present condition of the pipeline;
- (f) The anticipated stresses of the pipeline including the safe allowable stress limits; and

(g) The toughness of the steel.

~~((2)) Pipelines with mechanical or threaded joints must not be moved or lowered.~~

~~((3)) Pipelines operating at sixty psig or less which have a nominal diameter of two inches or less may be moved or lowered without the required study, if the operator can certify that no undue stresses will be placed on the pipeline and that it can be moved or lowered in a safe manner. The operator must consider factors such as the type of materials, proximity to fittings, joints, and welds, and any other factors that could place undue stress on the pipeline or create an unsafe condition.~~

(4) The gas pipeline company must conduct a leak survey ~~((must be conducted))~~ within thirty days from the date the company moves or lowers any gas pipeline ~~((has been moved or lowered))~~ under the provisions of subsection ~~((3))~~ (2) of this section.

AMENDATORY SECTION (Amending Docket No. PG-050933, General Order No. R-524, filed 11/23/05, effective 12/24/05)

WAC 480-93-178 Protection of plastic pipe. (1) ~~((Every operator))~~ Each gas pipeline company must have detailed written procedures for the storage, handling, and installation of plastic pipelines. Except for joining procedures, and unless the ~~((operator))~~ gas pipeline company has more stringent procedures, the ~~((storage, handling, and installation of all))~~ company must store, handle, and install plastic pipe ~~((must be))~~ in accordance with the latest applicable manufacturer's recommended practices.

(2) The gas pipeline company must follow the manufacturer's recommendation for maximum cumulative ultraviolet light exposure limit for plastic pipe ~~((is two years, or the manufacturer's recommended limit))~~. ~~((The acceptable time limit must be detailed in the operator's))~~ If there is no such recommendation, the gas pipeline company must not expose plastic pipe to ultraviolet light for more than two years. Each gas pipeline company must include the applicable ultraviolet exposure time limit in its procedures manual.

(3) Each gas pipeline company must install a weak link on each plastic pipe that is pulled through the ground by mechanical means ~~((must have a weak link installed that will))~~, to ensure the pipe will not be damaged by excessive tensile forces.

(4) When ~~((installing))~~ a gas pipeline company installs plastic pipelines parallel to other underground utilities, ~~((operators))~~ it must ensure there is a minimum of twelve inches of separation from the other utilities. Where a minimum twelve inches of separation is not possible, ~~((operators))~~ a gas pipeline company must take adequate precautions, such as inserting the plastic pipeline in conduit, to minimize any potential hazards resulting from the close proximity to the other utilities.

(5) When ~~((installing))~~ a gas pipeline company installs plastic pipelines perpendicular to other underground utilities, ~~((operators))~~ it must ensure there is a minimum of six inches of separation from the other utilities. Where a minimum six inches of separation is not possible, ~~((an operator))~~ a gas pipeline company must take adequate precautions, such as

inserting the plastic pipeline in conduit, to minimize any potential hazards resulting from the close proximity to the other utilities.

(6) Except for approved steel encased plastic pipe, and except where allowed by (b) of this subsection, ~~((the maximum time limit that))~~ a gas pipeline company may temporarily install plastic pipe ((may be temporarily installed)) above ground ~~((is))~~ for no longer than thirty days.

(a) During such temporary installations, ~~((operators))~~ the gas pipeline company must monitor and protect above ground plastic pipe from potential damage.

(b) ~~((Operators))~~ A gas pipeline company may install above ground plastic pipe for periods longer than thirty days if ~~((they have))~~ it has a written monitoring program and ~~((notify))~~ if it notifies the commission by telephone using the emergency notification line (see WAC 480-93-005(8)) prior to exceeding the thirty-day time limit.

(7) Plastic pipe must be bedded in a suitable material as recommended by the pipe manufacturer. Unless otherwise permitted by the manufacturer, plastic pipe must be bedded in an essentially rock-free material.

(8) Plastic pipe may not be squeezed more than one time in the same location.

(9) Plastic pipe must not be squeezed within twelve inches or three pipe diameters, whichever is greater, from any joint or fitting.

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-180 Plans and procedures. (1) Each ~~((operator))~~ gas pipeline company must have and follow a gas pipeline plan and procedure manual (manual) for operation, maintenance, inspection, and emergency response activities that is specific to the ~~((operator's))~~ gas pipeline company's system. The manual must include plans and procedures for meeting all applicable requirements of 49 CFR §§ 191, 192 and chapter 480-93 WAC, and any plans or procedures used by ~~((an operator's))~~ a gas pipeline company's associated contractors.

(2) The manual must be filed with the commission forty-five days prior to the operation of any gas pipeline. ~~((Operators))~~ Each gas pipeline company must file revisions to the manual with the commission annually. The commission may, after notice and opportunity for hearing, require that a manual be revised or amended. Applicable portions of the manual related to a procedure being performed on the pipeline must be retained on-site where the activity is being performed.

(3) The manual must be written in detail sufficient for a person with adequate training to perform the tasks described. For example, a manual should contain specific, detailed, step-by-step instructions on how to maintain a regulator or rectifier, conduct a leak survey or conduct a pressure test.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-185 Gas leak investigation. (1) ~~((Operators))~~ Each gas pipeline company must ~~((promptly))~~ investi-

gate any ~~((notification of a))~~ odor, leak, explosion, or fire, which may involve its gas pipelines ~~((or other gas facilities, received from any outside source such as a police or fire department, other utility, contractor, customer, or the general public)),~~ promptly after receiving notification. Where the investigation reveals a leak, the ~~((operator))~~ gas pipeline company must grade the leak in accordance with WAC 480-93-186, and take appropriate action. The ~~((operator))~~ gas pipeline company must retain the leak investigation record for the life of the pipeline.

(2) In the event of an explosion, fire, death, or injury, the ~~((operator))~~ gas pipeline company must not remove any suspected gas facility until the commission or the lead investigative authority has designated the release of the gas facility. Once the situation is made safe, the ~~((operator))~~ gas pipeline company must keep the facility intact until directed by the lead investigative authority.

(3) When leak indications are found to originate from a foreign source ~~((or facility such as gasoline vapors,))~~ (for example, a gasoline tank, a sewer, a marsh ((gas,)) or ((from)) customer-owned piping), and the ((operator must take appropriate action to protect life and property. Leaks that represent an on-going, potentially hazardous situation must be reported promptly to the owner or operator of)) situation is ongoing and potentially hazardous, the gas pipeline company must:

(a) Take appropriate action regarding its own facilities to protect life and property; and

(b) Report the leak promptly to the source facility owner or operator and, where appropriate, to the police department, fire department, or other appropriate governmental agency. If the property owner or an adult person occupying the premises is not available, the ((operator)) gas pipeline company must, within twenty-four hours of the leak investigation, send by first-class mail, addressed to the person occupying the premises, a letter explaining the results of the investigation. The ((operator)) gas pipeline company must keep a record of each letter sent for five years.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-186 Leak evaluation. (1) Based on an evaluation of the location and/or magnitude of a leak, the ~~((operator))~~ gas pipeline company must assign one of the leak grades defined in WAC 480-93-18601 to establish the leak repair priority. ~~((An operator))~~ A gas pipeline company may use an alphabetical grade classification, i.e., Grade A for Grade 1, Grade B for Grade 2, and Grade C for Grade 3 if it has historically used such a grading designation. ~~((Operators))~~ Each gas pipeline company must apply the same criteria used for initial leak grading when reevaluating leaks.

(2) Each ~~((operator))~~ gas pipeline company must establish a procedure for evaluating the concentration and extent of gas leakage. When evaluating any leak, the ~~((operator))~~ gas pipeline company must determine and document the perimeter of the leak area. If the perimeter of the leak extends to a building wall, the ~~((operator))~~ gas pipeline company must extend the investigation inside the building. Where the reading is in an unvented, enclosed space, the

~~((operator))~~ gas pipeline company must consider the rate of dissipation when the space is ventilated and the rate of accumulation when the space is resealed.

(3) The ~~((operator))~~ gas pipeline company must check the perimeter of the leak area with a combustible gas indicator. The ~~((operator))~~ gas pipeline company must perform a follow-up inspection on all leak repairs with residual gas remaining in the ground as soon as practical, but not later than thirty days following the repair.

(4) Grade 1 and 2 leaks can only be downgraded once to a Grade 3 leak without a physical repair. After a leak has been downgraded once, the maximum repair time for that leak is twenty-one months.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-18601 Leak classification and action criteria—Grade—Definition—Priority of leak repair. (1) A "Grade 1 leak" is a leak that represents an existing or probable hazard to persons or property and requiring prompt action, immediate repair, or continuous action until the conditions are no longer hazardous.

(a) Prompt action in response to a Grade 1 leak may require one or more of the following:

- (i) Implementation of the ~~((operator's))~~ gas pipeline company's emergency plan pursuant 49 CFR § 192.615;
- (ii) Evacuating the premises;
- (iii) Blocking off an area;
- (iv) Rerouting traffic;
- (v) Eliminating sources of ignition;
- (vi) Venting the area;
- (vii) Stopping the flow of gas by closing valves or other means; or
- (viii) Notifying police and fire departments.

(b) Examples. Grade 1 leaks requiring prompt action include, but are not limited to:

- (i) Any leak, which in the judgment of ~~((operating))~~ gas pipeline company personnel at the scene, is regarded as an immediate hazard;
- (ii) Escaping gas that has ignited unintentionally;
- (iii) Any indication of gas that has migrated into or under a building or tunnel;
- (iv) Any reading at the outside wall of a building or where the gas could potentially migrate to the outside wall of a building;
- (v) Any reading of eighty percent LEL or greater in an enclosed space;
- (vi) Any reading of eighty percent LEL, or greater in small substructures not associated with gas facilities where the gas could potentially migrate to the outside wall of a building; or
- (vii) Any leak that can be seen, heard, or felt and which is in a location that may endanger the general public or property.

(2) A "Grade 2 leak" is a leak that is recognized as being not hazardous at the time of detection but justifies scheduled repair based on the potential for creating a future hazard.

(a) ~~((Operators))~~ Each gas pipeline company must repair or clear Grade 2 leaks within fifteen months from the date the leak is reported. If a Grade 2 leak occurs in a segment of pipeline that is under consideration for replacement, an additional six months may be added to the fifteen months maximum time for repair provided above. In determining the repair priority, ~~((operators))~~ each gas pipeline company should consider the following criteria:

- (i) Amount and migration of gas;
- (ii) Proximity of gas to buildings and subsurface structures;
- (iii) Extent of pavement; and
- (iv) Soil type and conditions, such as frost cap, moisture and natural venting.

(b) ~~((Operators))~~ Each gas pipeline company must reevaluate Grade 2 leaks at least once every six months until cleared. The frequency of reevaluation should be determined by the location and magnitude of the leakage condition.

(c) Grade 2 leaks vary greatly in degree of potential hazard. Some Grade 2 leaks, when evaluated by the criteria, will require prompt scheduled repair within the next five working days. Other Grade 2 leaks may require repair within thirty days. The ~~((operator))~~ gas pipeline company must bring these situations to the attention of the individual responsible for scheduling leakage repair at the end of the working day. Many Grade 2 leaks, because of their location and magnitude, can be scheduled for repair on a normal routine basis with periodic reevaluation as necessary.

(d) When evaluating Grade 2 leaks, ~~((operators))~~ each gas pipeline company should consider leaks requiring action ahead of ground freezing or other adverse changes in venting conditions, and any leak that could potentially migrate to the outside wall of a building, under frozen or other adverse soil conditions.

(e) Examples. Grade 2 leaks requiring action within six months include, but are not limited to:

- (i) Any reading of forty percent LEL or greater under a sidewalk in a wall-to-wall paved area that does not qualify as a Grade 1 leak and where gas could potentially migrate to the outside wall of a building;
- (ii) Any reading of one hundred percent LEL or greater under a street in a wall-to-wall paved area that does not qualify as a Grade 1 leak and where gas could potentially migrate to the outside wall of a building;
- (iii) Any reading less than eighty percent LEL in small substructures not associated with gas facilities and where gas could potentially migrate creating a probable future hazard;
- (iv) Any reading between twenty percent LEL and eighty percent LEL in an enclosed space;
- (v) Any reading on a pipeline operating at thirty percent of the specified minimum yield strength or greater in Class 3 or 4 locations that does not qualify as a Grade 1 leak; or
- (vi) Any leak that in the judgment of ~~((operating))~~ gas pipeline company personnel at the scene is of sufficient magnitude to justify scheduled repair.

(3) A "Grade 3 leak" is a leak that is not hazardous at the time of detection and can reasonably be expected to remain not hazardous.

(a) ~~((Operators))~~ Each gas pipeline company should reevaluate Grade 3 leaks during the next scheduled survey, or

within fifteen months of the reporting date, whichever occurs first, until the leak is regraded or no longer results in a reading.

(b) Examples. Grade 3 leaks requiring reevaluation at periodic intervals include, but are not limited to:

(i) Any reading of less than eighty percent LEL in small gas associated substructures, such as small meter boxes or gas valve boxes; or

(ii) Any reading under a street in areas without wall-to-wall paving where it is unlikely the gas could migrate to the outside wall of a building.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-187 Gas leak records. Each ~~((operator))~~ gas pipeline company must prepare and maintain permanent gas leak records. The leak records must contain sufficient data and information to permit the commission to assess the adequacy of the ~~((operator's))~~ gas pipeline company's leakage program. Gas leak records must contain, at a minimum, the following information:

(1) Date and time the leak was detected, investigated, reported, and repaired, and the name of the ~~((employee(s)))~~ person conducting the investigation;

(2) Location of the leak (sufficiently described to allow ready location by other qualified personnel);

(3) Leak grade;

(4) Pipeline classification (e.g., distribution, transmission, service);

(5) If reported by an outside party, the name and address of the reporting party;

(6) Component that leaked (e.g., pipe, tee, flange, valve);

(7) Size and material that leaked (e.g., steel, plastic, cast iron);

(8) Pipe condition;

(9) Type of repair;

(10) Leak cause;

(11) Date pipe installed (if known);

(12) Magnitude and location of CGI readings left; and

(13) Unique identification numbers (such as serial numbers) of leak detection equipment.

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-188 Gas leak surveys. (1) ~~((Operators))~~ Each gas pipeline company must perform gas leak surveys using a gas detection instrument covering the following areas and circumstances:

(a) Over all mains, services, and transmission lines including the testing of the atmosphere near other utility (gas, electric, telephone, sewer, or water) boxes or manholes, and other underground structures;

(b) Through cracks in paving and sidewalks;

(c) On all above ground piping (may be checked with either a gas detection instrument or with a soap solution);

(d) Where a gas service line exists, ~~((a))~~ the gas pipeline company must conduct a leak survey ~~((must be conducted))~~

at the building wall at the point of entrance, using a bar hole if necessary; and

(e) Within all buildings where gas leakage has been detected at the outside wall, at locations where escaping gas could potentially migrate into and accumulate inside the building.

(2) Each gas pipeline company must maintain, test for accuracy, calibrate and operate gas detection instruments ~~((must be maintained, tested for accuracy, calibrated, and operated))~~ in accordance with the manufacturer's recommendations. If there are no written manufacturer's recommendations or schedules, then the gas pipeline company must test such instruments ~~((must be tested))~~ for accuracy at least monthly, but not to exceed forty-five days between testing, and ~~((include testing))~~ at least twelve times per year. The gas pipeline company must recalibrate or remove from service any such instrument that ~~((fails its))~~ does not meet applicable tolerances ~~((must be calibrated or removed from service))~~. Records of accuracy checks, calibration and other maintenance performed must be maintained for five years.

(3) Each gas pipeline company must conduct gas leak surveys ~~((must be conducted))~~ according to the following minimum frequencies:

(a) Business districts - at least once annually, but not to exceed fifteen months between surveys. All mains in the right of way adjoining a business district must be included in the survey;

(b) High occupancy structures or areas - at least once annually, but not to exceed fifteen months between surveys;

(c) Gas pipelines operating at or above two hundred fifty psig - at least once annually, but not to exceed fifteen months between surveys;

(d) Where the gas system has cast iron, wrought iron, copper, or noncathodically protected steel - at least twice annually, but not to exceed seven and one-half months between surveys; and

(e) Unodorized gas pipelines - at least monthly.

(4) Each gas pipeline company must conduct special leak surveys ~~((must be conducted))~~ under the following circumstances:

(a) Prior to paving or resurfacing, following street alterations or repairs where gas ~~((facilities))~~ pipelines are under the area to be paved, and where damage could have occurred to gas ~~((facilities))~~ pipelines;

(b) In areas where substructure construction occurs adjacent to underground gas ~~((facilities))~~ pipelines, and damage could have occurred to the gas ~~((facilities, operators))~~ pipeline, each gas pipeline company must perform a gas leak survey following the completion of construction, but prior to paving;

(c) Unstable soil areas where active gas ~~((lines))~~ pipelines could be affected;

(d) In areas and at times of unusual activity, such as earthquake, floods, and explosions; and

(e) After third-party excavation damage to services, ~~((operators))~~ each gas pipeline company must perform a gas leak survey from the point of damage to the service tie-in.

(5) Each gas pipeline company must keep leak survey records ~~((must be kept))~~ for a minimum of five years. At a

minimum, survey records must contain the following information:

- (a) Description of the system and area surveyed (including maps and leak survey logs);
 - (b) Survey results;
 - (c) Survey method;
 - (d) Name of the ~~((employee))~~ person who performed the survey;
 - (e) Survey dates; and
 - (f) Instrument tracking or identification number.
- (6) Each ~~((operator))~~ gas pipeline company must perform self audits of the effectiveness of its leak detection and recordkeeping programs. ~~((Operators))~~ Each gas pipeline company must maintain records of the self audits for five years. Self audits must be performed as frequently as necessary, but not to exceed three years between audits. At a minimum, self audits should ensure that:
- (a) Leak survey schedules meet the minimum federal and state safety requirements for gas pipelines;
 - (b) Consistent evaluations of leaks are being made throughout the system;
 - (c) Repairs are made within the time frame allowed;
 - (d) Repairs are effective; and
 - (e) Records are accurate and complete.

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-200 Reporting requirements ~~((for operators of gas facilities))~~. (1) ~~((Every operator))~~ Each gas pipeline company must give notice to the commission by telephone using the emergency notification line (see WAC 480-93-005(8)) within two hours of discovering an incident or hazardous condition arising out of its operations that results in:

- (a) ~~((Results in))~~ A fatality or personal injury requiring hospitalization;
 - (b) ~~((Results in))~~ Property damage ~~((to the property of the operator and others of a combined total exceeding))~~ valued at more than fifty thousand dollars;
 - (c) ~~((Results in))~~ The evacuation of a building, or a high occupancy structure or area;
 - (d) ~~((Results in))~~ The unintentional ignition of gas;
 - (e) ~~((Results in))~~ The unscheduled interruption of service furnished by any ~~((operator))~~ gas pipeline company to twenty-five or more distribution customers;
 - (f) ~~((Results in))~~ A pipeline or system pressure exceeding the MAOP plus ten percent or the maximum pressure allowed by proximity considerations outlined in WAC 480-93-020; or
 - (g) ~~((Results in the news media reporting the occurrence; or~~
 - ~~(h) Is))~~ A significant occurrence, in the judgment of the ~~((operator))~~ gas pipeline company, even though it does not meet the criteria of (a) through (g) of this subsection.
- (2) ~~((Operators))~~ Each gas pipeline company must give notice to the commission by telephone using the emergency notification line (see WAC 480-93-005(8)) within twenty-

four hours of ~~((occurrence of every))~~ each incident or hazardous condition arising out of its operations that results in:

- (a) The uncontrolled release of gas for more than two hours;
 - (b) The taking of a high pressure supply or transmission pipeline or a major distribution supply gas pipeline out of service;
 - (c) A gas pipeline ~~((or system))~~ operating at low pressure dropping below the safe operating conditions of attached appliances and gas equipment; or
 - (d) A gas pipeline ~~((or system))~~ pressure exceeding the MAOP.
- (3) Routine or planned maintenance and operational activities of the ~~((operator))~~ gas pipeline company that result in operator-controlled plant and equipment shut downs, reduction in system pressures, flaring or venting of gas, and normal leak repairs are not reportable items under this section.
- (4) ~~((Operators))~~ Each gas pipeline company must provide to the commission a written report within thirty days of the initial telephonic report required under subsections (1) and (2) of this section. At a minimum, the written reports must include the following:
- (a) Name(s) and address(es) of any person or persons injured or killed, or whose property was damaged;
 - (b) The extent of such injuries and damage;
 - (c) A description of the incident or hazardous condition including the date, time, and place, and reason why the incident occurred. If more than one reportable condition arises from a single incident, each must be included in the report;
 - (d) A description of the gas ~~((facilities))~~ pipeline involved in the incident or hazardous condition, the system operating pressure at that time, and the MAOP of the facilities involved;
 - (e) The date and time the ~~((operator))~~ gas pipeline company was first notified of the incident;
 - (f) The date and time the ~~((operators'))~~ gas pipeline company's first responders arrived on-site;
 - (g) The date and time the gas ~~((facility))~~ pipeline was made safe;
 - (h) The date, time, and type of any temporary or permanent repair that was made;
 - (i) The cost of the incident to the ~~((operator))~~ gas pipeline company;
 - (j) Line type;
 - (k) City and county of incident; and
 - (l) Any other information deemed necessary by the commission.
- (5) ~~((Operators))~~ Each gas pipeline company must submit a supplemental report if required information becomes available after the thirty-day report is submitted.
- (6) ~~((Operators))~~ Each gas pipeline company must provide to the commission a copy of each failure analysis report completed or received by the ~~((operator))~~ gas pipeline company, concerning any incident or hazardous condition due to construction defects or material failure within five days of completion or receipt of such report.
- (7) ~~((Operators))~~ Each gas pipeline company must file with the commission the following annual reports no later than March 15 for the preceding calendar year:

(a) A copy of every Pipeline and Hazardous Materials Safety Administration (PHMSA) F-7100.1-1 and F-7100.2-1 annual report required by U.S. Department of Transportation, Office of Pipeline Safety.

(b) A report titled, "Damage Prevention Statistics." The Damage Prevention Statistics report must include in detail the following information:

(i) Number of gas-related one-call locate requests completed in the field;

(ii) Number of third-party damages incurred; and

(iii) Cause of damage, where cause of damage is classified as one of the following:

(A) Inaccurate locate;

(B) Failure to use reasonable care;

(C) Excavated prior to a locate being conducted; or

(D) Excavator failed to call for a locate.

(c) A report detailing all construction defects and material failures resulting in leakage. ~~((Operators))~~ Each gas pipeline company must categorize the different types of construction defects and material failures anticipated for their system. The report must include the following:

(i) Types and numbers of construction defects; and

(ii) Types and numbers of material failures.

(8) ~~((Operators))~~ Each gas pipeline company must file with the commission, and with appropriate officials of all municipalities where ~~((operators))~~ gas pipeline companies have facilities, the names, addresses, and telephone numbers of the responsible officials of the ~~((operator))~~ gas pipeline company who may be contacted in the event of an emergency. In the event of any changes in ~~((operator))~~ such personnel, the ~~((operator))~~ gas pipeline company must immediately notify ~~((immediately))~~ the commission and municipalities.

(9) ~~((Operators))~~ Each gas pipeline company must send to the commission, by e-mail, daily reports of construction and repair activities. Reports may be faxed only if the ~~((operator))~~ gas pipeline company does not have e-mail capability. Reports must be received no later than 10:00 a.m. each day of the scheduled work, and must include both ~~((operator))~~ gas pipeline company and contractor construction and repair activities. Report information must be broken down by individual crews and the scheduled work must be listed by address, as much as practical. To the extent possible the reports will only contain construction and repair activity scheduled for that day, but they may include a reasonable allowance for scheduling conflicts or disruptions.

(10) When ~~((an operator))~~ a gas pipeline company is required to file a copy of a DOT Drug and Alcohol Testing Management Information System (MIS) Data Collection Form with the U.S. Department of Transportation, Office of Pipeline Safety, the ~~((operator))~~ gas pipeline company must simultaneously submit a copy of the form to the commission.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-223 Civil penalty for violation of RCW 80.28.210 and commission gas safety rules. ~~((1))~~ Any gas company that violates any provisions of chapter 480-93

WAC has failed to construct and/or maintain its facilities in a safe and efficient manner in violation of RCW 80.28.210, and is subject to a civil penalty under RCW 80.28.212.

~~((a))~~ The maximum civil penalty under RCW 80.28.212 for violations by a gas company of any provision of chapter 480-93 WAC (other than WAC 480-93-160 and 480-93-200 (1)(h)) is twenty-five thousand dollars for each violation for each day that the violation persists up to a maximum civil penalty of five hundred thousand dollars for a related series of violations.

~~((b))~~ The maximum civil penalty under RCW 80.28.212 for violations by a gas company of WAC 480-93-160 or 480-93-200 (1)(h) is one thousand dollars for each violation for each day that the violation persists, up to a maximum civil penalty of two hundred thousand dollars for a related series of violations.

~~((c))~~ The commission may compromise any civil penalty issued under RCW 80.28.212.

~~((2))~~ In addition to a civil penalty under RCW 80.28.212, any public service company that violates RCW 80.28.210 or any rule issued thereunder, may also be subject to civil penalties under RCW 80.04.405 and/or 80.04.380.

~~((3))~~ Any officer, agent, or employee of any public service company who aids or abets in the violations of RCW 80.24.210 or any rule issued thereunder, is subject to a civil penalty under RCW 80.04.405.

~~((4))~~ Any officer, agent, or employee of any public service company violating RCW 80.28.210 or who procures or aids and abets such a violation, may be subject to civil penalties under RCW 80.04.385.

~~((5))~~ Any corporation other than a public service company that is subject to RCW 80.28.210 and that violates any provision of chapter 480-93 WAC, has failed to construct and/or maintain its facilities in a safe and efficient manner in violation of RCW 80.28.210, and is subject to a civil penalty under RCW 80.04.387.) Any gas pipeline company that violates any pipeline safety provision of any commission order or any rule in this chapter including those rules adopted by reference, or chapter 81.88 RCW is subject to a civil penalty not to exceed one hundred thousand dollars for each violation for each day that the violation persists. The maximum civil penalty under this subsection for a related series of violations is one million dollars.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-230 Exemptions from rules in chapter 480-93 WAC. The commission may grant an exemption from the provisions of any rule in this chapter ~~((consistent with))~~. The standards and ~~((according to the))~~ procedures for seeking an exemption are set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules.)

AMENDATORY SECTION (Amending Docket No. P-041344, General Order No. R-523, filed 8/4/05, effective 7/1/06)

WAC 480-93-240 Annual pipeline safety fee methodology. (1) ~~(Every gas company and every interstate gas pipeline company subject to inspection or enforcement by the commission)~~ This rule sets forth the commission's fee methodology for the annual regulatory fee paid by a gas pipeline company as that term is defined in RCW 81.88.010. For the purposes of this section, a gas pipeline company is called "company" or "companies" and the "commission's pipeline safety program" means the pipeline safety program that includes each company.

(2) Each company will pay an annual pipeline safety fee as established in the methodology set forth in subsection (3) of this section ~~((2) below)~~.

~~((2))~~ (3) The fee will be set by general order of the commission entered before ~~((July))~~ September 1 of each year and will be collected in four equal installments payable on the first day of each ~~((calendar))~~ quarter as listed below:

1st quarter fee installment due September 1;

2nd quarter fee installment due December 1;

3rd quarter fee installment due March 1;

4th quarter fee installment due June 1.

(a) The total of pipeline safety fees will be calculated to recover no more than the costs of the legislatively authorized workload represented by current appropriations for the commission's pipeline safety program, less the amount received in total base grants through the Federal Department of Transportation and less any amount received from penalties collected under RCW 19.122.050. Federal grants, other than the federal base grant, received by the commission for additional activities not included or anticipated in the legislatively directed workload will not be credited against company pipeline safety fees, nor will the work supported by ~~((such))~~ grants be considered a cost for purposes of calculating such fees. To the extent that the actual base grant proceeds are different than the amount credited, the difference will be applied in the following year.

(b) Total pipeline safety fees as determined in (a) of this subsection will be calculated in two parts:

(i) The commission's annual overhead charge to the pipeline safety program will be allocated among companies according to each gas pipeline company's share of the total of all pipeline miles within Washington as reported by ~~((the))~~ companies in their annual reports to the commission.

(ii) After deducting the commission's annual overhead charge, the remainder of the total pipeline safety fee commission's annual pipeline safety program allotment will be allocated among companies in proportion to each company's share of the program staff hours that are directly attributable to particular companies. The commission will determine each company's share by dividing the total hours directly attributable to the company during the two preceding calendar years (as reflected in the program's timekeeping system) by the total of directly attributable hours for all companies over the same period.

(iii) For fee setting purposes, any program hours related to a ~~((staff))~~ commission investigation of an incident attributed to third-party damage ~~((resulting))~~ that results in penal-

ties collected under RCW 19.122.055 will not be directly attributed to the ~~((operator))~~ owner of the damaged gas pipeline ~~((for fee-setting purposes))~~.

(c) The commission general order setting fees pursuant to this rule will detail the specific calculation of each company's pipeline safety fee including the allocations set forth in (b) of this subsection.

~~((3))~~ (4) By ~~((June))~~ August 1 of each year the commission staff will mail an invoice to each company ~~((an invoice))~~.

~~((4))~~ (5) All funds received by the commission for the pipeline safety program will be deposited to the pipeline safety account. For ~~((those companies))~~ each gas pipeline company subject to RCW 80.24.010, ~~((the))~~ their portion of the company's total regulatory fee applicable to pipeline safety will be transferred from the public service revolving fund to the pipeline safety account.

~~((5))~~ (6) Any company wishing to contest the amount of the fee imposed under this section must pay the fee when due and, within 6 months ~~((of))~~ after the due date of the fee, file a petition in writing with the commission requesting a refund. The petition must state the name of the petitioner; the date and the amount paid, including a copy of any receipt, if available; the amount of the fee that is contested; ~~((and any))~~ all reasons why the commission may not impose the fee in that amount; and a calculation and explanation of the fee amount the petitioner contends is appropriate, if any. The commission may grant the petition administratively or may set the petition for adjudication or for brief adjudication.

AMENDATORY SECTION (Amending Docket PG-061027, General Order R-544, filed 8/23/07, effective 9/23/07)

WAC 480-93-250 Damage prevention. Each ~~((operator))~~ gas pipeline company must comply with chapter 19.122 RCW, including:

(1) Subscribe to the appropriate one-number locator service;

(2) Provide, upon receipt of locate notice, reasonably accurate information as to its locatable underground facilities by surface-marking the location of the facilities;

(3) Respond with locate markings within two business days after receipt of the notice or within a time mutually agreed upon between the operator and the excavator requesting the utility locate information.

AMENDATORY SECTION (Amending Docket A-060464, General Order No. R-535, filed 6/28/06, effective 7/29/06)

WAC 480-93-999 Adoption by reference. In this chapter, the commission adopts by reference each of the regulations and/or standards identified below. ~~((For))~~ Each regulation or standard ~~((the commission is adopting by reference))~~ is listed ~~((the))~~ by publication, publisher, ~~((the))~~ scope of what the commission is adopting, ~~((the))~~ effective date of the regulation or standard ~~((the commission is adopting))~~, the place within the commission's rules the regulation or standard is referenced, and where to obtain the ~~((availability of the publication in which the))~~ regulation or standard ~~((is found))~~.

(1) Parts 191, 192, 193, and 199 of Title 49 Code of Federal Regulations, (~~edited as 49 CFR, Parts 191, 192, 193, and 199~~) including all appendices and amendments thereto as published by the United States Government Printing Office.

(a) The commission adopts the version of the above regulations that were in effect on October 1, (~~(2005)~~) 2007, except the following sections are not adopted by reference: 191.1, 192.1(a), 193.2001(a), 199.1. (~~However~~) In addition, please note that in WAC 480-93-013, the commission includes "new construction" in the definition of "covered task," as defined in 49 CFR § 192.801 (b)(2).

(b) This publication is referenced in WAC 480-93-005, 480-93-080, 480-93-100, 480-93-110, 480-93-124, 480-93-155, 480-93-170, 480-93-180, and 480-93-18601.

(c) The Code of Federal Regulations is published by the federal government. Copies of Title 49 Code of Federal Regulations are available from most Government Printing Offices, including the Seattle office of the Government Printing Office, as well as from various third-party vendors and various libraries, including the branch of the state library located at the commission. It is also available for inspection at the commission.

(2) Section IX of the ASME Boiler and Pressure Vessel Code.

(a) The commission adopts the 2001 edition of Section IX of the ASME Boiler and Pressure Vessel Code.

(b) This publication is referenced in WAC 480-93-080.

(c) Copies of Section IX of the ASME Boiler and Pressure Vessel Code (2001 edition) are available from The American Society of Mechanical Engineers, Park Avenue, New York, New York, and various libraries, including the branch of the state library located at the commission. It is also available for inspection at the commission.

(3) The American Petroleum Institute (API) standard 1104 (19th edition).

(a) The commission adopts the 19th edition of this standard.

(b) This standard is referenced in WAC 480-93-080.

(c) Copies of API standard 1104 (19th edition) are available from the Office of API Publishing Services in Washington DC, and various libraries, including the branch of the state library located at the commission. It is also available for inspection at the commission.

WSR 08-12-054

PERMANENT RULES

TRANSPORTATION COMMISSION

[Filed June 2, 2008, 8:26 a.m., effective July 3, 2008]

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

Purpose: Pursuant to RCW 47.56.240, this rule establishes toll rates for the Tacoma Narrows Bridge.

Citation of Existing Rules Affected by this Order: Amending WAC 468-270-070.

Statutory Authority for Adoption: RCW 47.56.030, 47.46.100.

Adopted under notice filed as WSR 08-09-032 on April 9, 2008.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: May 31, 2008.

Reema Griffith
Executive Director

AMENDATORY SECTION (Amending WSR 08-06-032, filed 2/26/08, effective 4/7/08)

WAC 468-270-070 What will the toll rates be for the Tacoma Narrows Bridge?

((Rate table \$3.00 cash/\$1.75 "Good to Go!TM" (two axle vehicles)

| Tacoma Narrows Bridge | | | |
|-----------------------|----------------|---|-----|
| | Cash toll rate | "Good To Go! TM " toll rates | |
| 2 axle | \$3.00 | \$1.75 | |
| 3 axle | \$4.50 | \$2.65 | (3) |
| 4 axle | \$6.00 | \$3.50 | |
| 5 axle | \$7.50 | \$4.40 | (3) |
| 6 or more axles | \$9.00 | \$5.25 | |

Notes: (1) The base toll rate is the toll rate per axle. It is only used to calculate multi-axle rates, which are calculated as a multiplier of the base toll rate (\$1.50 for cash and \$0.875 for "Good to Go!TM" toll rates).

(2) The "Good To Go!TM" toll rates are in effect through June 30, 2008, or until changed by the commission. If no further action is taken by the commission, on July 1, 2008, the cash toll rate column becomes the toll rate for all vehicles.

(3) Rate rounded up to nearest five cents.)

Tacoma Narrows Bridge

Proposed Toll Rates for All Vehicles¹

| | | 7/1/2008 - 6/30/2009 ² | |
|--|----------|-----------------------------------|-------------------------|
| Vehicle Type | Axles | Cash | Electronic ³ |
| Passenger vehicle/ Motorcycle | <u>2</u> | \$4.00 | \$2.75 |
| Passenger vehicle with small trailer | <u>3</u> | \$6.00 | \$4.15 |
| Tractor trailer rig/Pas- senger vehicle with trailer | <u>4</u> | \$8.00 | \$5.50 |

Tacoma Narrows Bridge
Proposed Toll Rates for All Vehicles¹

| | | 7/1/2008 - 6/30/2009 ² | |
|---|-------|-----------------------------------|-------------------------|
| Vehicle Type | Axles | Cash | Electronic ³ |
| Tractor trailer with big trailer | 5 | \$10.00 | \$6.90 |
| Tractor trailer with bigger trailer (6 or more axles) | 6 | \$12.00 | \$8.25 |

Note: ¹The base toll rate per axle. It is only used to calculate multi-axle rates, which are calculated as a multiplier of the base toll rate (\$2.00 for cash and \$1.375 for electronic toll rates).

²The toll rates are in effect through June 30, 2009, or until changed by the commission.

³The rate for the electronic tolls has been rounded up to the nearest five cents where appropriate.

WSR 08-12-055
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed June 2, 2008, 11:21 a.m., effective July 3, 2008]

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

Purpose: Per legislation that passed this session, SB 6740, the professional educator standards board (PESB) would allow ESDs to use their portion of certification fees to operate their certification offices. The PESB will also allow a school counselor holding a school counselor national board certificate to have met the professional certificate requirement.

Citation of Existing Rules Affected by this Order: Amending WAC 181-79A-130, 181-79A-131, and 181-79A-221.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 08-08-107 on April 2, 2008.

A final cost-benefit analysis is available by contacting Nasue Nishida, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail nasue.nishida@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 22, 2008.

Nasue Nishida
Policy and Research Analyst

AMENDATORY SECTION (Amending WSR 08-03-100, filed 1/20/08, effective 2/20/08)

WAC 181-79A-130 Fee for certification. (1) In accordance with provisions of RCW 28A.410.060 and 28A.415-010, the fee for certificates which are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

(a) The first issue of the residency certificate, five dollars for each year of validity;

(b) The continuing certificate, seventy dollars;

(c) The reinstatement, additional endorsement on the teaching certificate, duplicate certificates, substitute certificates, and certificates issued for the purpose of showing a name change, fifteen dollars;

(d) The first peoples' language, culture, and oral tribal traditions teacher certificate, twenty-five dollars; and

(e) Any other certificate or credential or any renewal thereof, five dollars for each year of validity;

(f) Provided, That the fee for all career and technical education certificates shall be one dollar:

(g) Provided, That a one-time late fee for a renewed initial or continuing certificate issued under the provisions of WAC 181-79A-123 (7), (8), or (9) for those whose initial certificate had already expired shall be one hundred dollars.

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be five dollars.

(3) Officials authorized to collect certification fees are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, or their designees. Sovereign tribal governments may collect certification fees for first peoples' language, culture, and oral tribal traditions certificates. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, sovereign tribal government or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.410.060. The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or his or her designee. Fees not refunded shall apply as credit toward certificate fees if such applicant reapplies within twenty-four months of the date of denial. Monies accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting certification fees may retain one dollar of each fee in order to

hold a professional training institute. If such district does not hold an institute, all such moneys shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district shall be used to support program activities related to statewide pre-certification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional in-service training programs (~~and evaluations thereof~~), program evaluation and/or provision of certification services by educational service districts.

(d) Use of certification fees described in this section shall be reported annually to the professional educator standards board pursuant to WAC 181-79A-131(~~(5)~~) (6).

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-79A-131 Use of fee for certification. (1) Certification fees will be used solely for precertification preparation, program evaluation, professional in-service training programs, (~~teachers' institutes and/or workshops, and evaluations thereof~~) and/or provision of certification services by educational service districts in accordance with this chapter.

(2) Precertification preparation:

(a) The primary utilization shall be to support collaborative efforts essential to program development, program evaluation, and assessment of candidates' entry and exit competency.

(b) Funds set aside for precertification shall not supplant funds already available to any participating agency.

(c) A single educational service district shall be designated to administer the funds allocated for precertification programs. The designated educational service district shall be permitted to retain a percentage of the precertification fees at a rate to be negotiated by the superintendent of public instruction and the educational service district for costs related to administering these funds.

(d) Each quarter every educational service district shall forward the moneys designated for precertification programs to the educational service district designated to administer such programs.

(3) Professional in-service training programs and teachers' institutes and/or workshops:

(a) Each educational service district, or cooperative thereof as specified in (d) of this subsection, shall establish an in-service committee composed of an educational service district representative; at least one district superintendent; one principal; one educational staff associate; one elementary, one junior high and one senior high teacher; one representative from the elementary or secondary level of private schools within the educational service district; and one representative selected by the chief administrative officer responsible for professional education from a college/university having a professional educator standards board-approved teacher education program. Teacher representatives shall be selected by agreement among the presidents of the local education associations within the respective educational service district or cooperative thereof.

(b) The educational service district representative shall serve as chairperson of the in-service committee and provide liaison with the superintendent of public instruction and the professional educator standards board.

(c) The in-service committee will be responsible for coordinating in-service/staff development model programs within the educational service district and shall submit to the superintendent of public instruction and the professional educator standards board a plan for soliciting and selecting model programs which shall include procedures for conducting needs assessments, determining priorities and carrying out program evaluation.

(d) Cooperative agreements may be made among educational service districts to provide quality in-service education programs.

(e) Funds designated for in-service programs shall not supplant funds already available for such programs.

(4) Provision of certification services:

(a) The primary utilization shall be to support costs associated with operating educational service district certification offices to provide direct service to educators related to certification.

(b) Funds set aside for the provision of certification services shall not supplant funds already available to any educational service district.

(5) Allowable expenditures. Funds may be used to support costs related to training, such as the payment of professional contractual services, per diem, travel costs, materials, printing, or released time. Nonallowable costs are college/university tuition and fees.

(~~(5)~~) (6) Annual reporting. No later than July 1, the superintendent of public instruction shall prepare and present to the professional educator standards board an annual report concerning the use of certification fees for (~~precertification and in-service activities~~) the previous fiscal year. The report shall include proposed budgets and a description of activities, in accordance with this chapter, for the upcoming fiscal year. Budgets and activities must be approved by the professional educator standards board on an annual basis.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-79A-221 Academic and experience requirements for certification—School counselors, school psychologists, and school social workers. Candidates for school counselor, school psychologist and school social worker certification shall complete the following requirements in addition to those set forth in WAC 181-79A-150 and 181-79A-226: Provided, That it shall not be necessary for any candidate who holds a master's or doctorate degree to obtain the specified master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that he or she has completed all course work requirements relevant to the required master's degree and has satisfactorily completed a comprehensive written examination required in such master's degree program: Provided, That if any candidate has been awarded a master's degree without a comprehensive written examination, the candidate, as a condition for certification, shall arrange to take such an examina-

tion with any accredited college or university and provide the superintendent of public instruction with an affidavit from the chair of the department of such academic field that he or she has successfully completed the above noted comprehensive examination.

(1) School counselor.

(a) Initial.

(i) The candidate shall have completed all requirements for the master's degree (except special projects or thesis) with a major in counseling.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be an examination of a regionally accredited institution of higher education or the National Counselor Examination (NCE) of the National Board of Certified Counselors (NBCC).

(b) Residency.

(i) The candidate shall hold a master's degree with a major in counseling.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored, written examination of a regionally accredited institution of higher education or the candidate may meet this requirement by receiving a passing score on the Praxis II guidance and counseling examination administered by Educational Testing Service (ETS).

(c) Continuing.

(i) The candidate shall hold a master's degree with a major in counseling.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(iii) The candidates must demonstrate their respective knowledges and skills while employed in that role by passing a one-quarter or one-semester college or university course that includes peer review. The college or university shall establish the procedures for the peer review with advice from the respective professional education advisory board.

(d) Professional. The candidate shall have completed an approved professional certificate program, provided, that an individual who holds a school counseling certificate issued by the National Board for Professional Teaching Standards (NBPTS) shall be deemed to have met the requirement for completion of a professional certificate program, in recognition that NBPTS certification is issued only to individuals who have demonstrated highly advanced skills as a school counselor.

(2) School psychologist.

(a) Initial.

(i) The candidate shall have completed all requirements for the master's degree (except special projects or thesis) with a major or specialization in school psychology.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge

included in the course work for the required master's degree. This examination shall be an examination from a regionally accredited institution of higher education or the National Certification of School Psychologist (NCSP) examination.

(b) Residency.

(i) The candidate shall hold a master's degree with a major or specialization in school psychology.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored, written examination of a regionally accredited institution of higher education or the candidate may meet this requirement by receiving a passing score on the Praxis II school psychology examination administered by Educational Testing Service (ETS).

(c) Continuing.

(i) The candidate shall hold a master's degree with a major or specialization in school psychology.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(iii) The candidates must demonstrate their respective knowledges and skills while employed in that role by passing a one-quarter or one-semester college or university course that includes peer review. The college or university shall establish the procedures for the peer review with advice from the respective professional education advisory board.

(d) Professional. The candidate shall have completed an approved professional certificate program.

(3) School social worker.

(a) Initial.

(i) The candidate shall have completed all requirements for a master's degree in social work except special projects or thesis.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be an examination from a regionally accredited institution of higher education, the social worker examination of the Academy of Certified Social Workers or the National Teacher Examination—School Social Worker Specialty Area examination required for certification as a school social worker by the National Association of Social Workers.

(b) Residency.

(i) The candidate shall hold a master's degree in social work.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored, written examination of a regionally accredited institution of higher education or the candidate may meet the requirement by receiving a passing score on the Praxis II school social work examination administered by Educational Testing Service (ETS).

(c) Continuing.

(i) The candidate shall hold a master's degree in social work.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(iii) The candidates must demonstrate their respective knowledges and skills while employed in that role by passing a one-quarter or one-semester college or university course that includes peer review. The college or university shall establish the procedures for the peer review with advice from the respective professional education advisory board.

(d) Professional. The candidate shall have completed an approved professional certificate program.

WSR 08-12-056
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed June 2, 2008, 11:24 a.m., effective July 3, 2008]

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

Purpose: The professional educator standards board proposes language to create a conditional waiver for teachers assigned out-of-endorsement. The conditional waiver will ensure the most qualified teacher is assigned to a particular classroom for which no properly endorsed teacher can be found. It is similar to office of superintendent of public instruction's special education preendorsement waiver.

Citation of Existing Rules Affected by this Order: Amending WAC 181-82-105 and 181-82-110.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 08-08-105 on April 2, 2008.

A final cost-benefit analysis is available by contacting Nasue Nishida, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail nasue.nishida@k12.wa.us.

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

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

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

Date Adopted: May 21, 2008.

Nasue Nishida
Policy and Research Analyst

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-82-105 Assignment of classroom teachers within districts. In addition to holding teaching permits or certificates as required by WAC 180-16-220(2), the assignment of classroom teachers in the basic program of education shall comply with the following:

(1) Classroom teachers with standard or unendorsed continuing teacher certificates may be assigned to any grade or subject areas for which certification is required.

(2) Classroom teachers with initial, residency, endorsed continuing, or professional teacher certificates may be assigned only to the specified grades and specified subject areas stated as endorsements upon their respective certificates or permits.

(3) Classroom teachers with initial, residency, endorsed continuing, or professional teacher certificates who have an elementary education endorsement may be assigned to teach any subject in grades K-8.

(4) Any certificated teacher who has completed twenty-four quarter hours (sixteen semester hours) of academic study in a content area that will be offered in grades four through nine may be assigned to that course even if the teacher does not hold an endorsement in that area.

(5) Any certificated teacher may be assigned to a middle school or junior high school block program, which for the purpose of this section shall be defined as the same teacher assigned to teach two or more subject areas to the same group of students, if the teacher has an endorsement in one of the subject areas and has completed or will complete within one year nine quarter hours in each of the other subject areas.

(6) Upon determination by school districts that teachers have the competencies to be effective teachers in alternative settings, individuals with initial, residency, endorsed continuing, or professional teacher certificates may be assigned to teach in alternative schools.

(7) Any certificated teacher may be assigned to courses offered in basic education subject areas not included with the list of endorsements specified in WAC (~~(181-82-202)~~) 181-82A-202.

(8) Any certificated teacher may be assigned to serve as a substitute classroom teacher at any grade level or in any subject area for a period not to exceed thirty consecutive school days in any one assignment.

(9) Any certificated person holding a limited certificate as specified in WAC 181-79A-230 or a career and technical education certificate as specified in chapter 181-77 WAC may be assigned as per the provisions of such section or chapter.

(10) If a teacher is assigned to provide special education, then the district must also comply with WAC 392-172-200 and 392-172-202.

(11)(a) For the purpose of this section, the term "specified subject areas" shall mean courses or classes with the same subject area title as specified by the classroom teacher's

endorsement and courses or classes which the board of directors of the district, using the endorsement-related assignment table published by the professional educator standards board as a nonbinding guideline, determines to substantially include the same subject area as the endorsement—e.g., a classroom teacher with a health endorsement may be assigned to any course, regardless of course title, which substantially includes health as the subject area.

(b) The endorsement-related assignment table published by the professional educator standards board may not be changed without prior professional educator standards board approval. Endorsement-related assigned classroom teachers must be evaluated annually specific to the assignment and achieve a satisfactory rating to continue in the assignment.

(12) Exceptions to the assignment requirements of subsection (1) of this section must comply with WAC 181-82-110.

(13) School district compliance with this section shall be subject to the state staff review process specified in WAC 180-16-195(2).

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-82-110 Exceptions to classroom teacher assignment policy. Exceptions to the classroom teacher assignment policy specified in WAC 181-82-105 shall be limited to the following:

(1) Upon determination by school districts that teachers have the competencies to be effective teachers in areas other than their endorsed areas, individuals with initial, residency, endorsed continuing, or professional teacher certificates who have completed provisional status with a school district under RCW 28A.405.220 may be assigned to classes other than in their areas of endorsement. If teachers are so assigned, the following shall apply:

(a) A designated representative of the district and any such teacher so assigned shall mutually develop a written plan which provides for necessary assistance to the teacher, and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement assignment;

(b) Such teachers shall not be subject to nonrenewal or probation based on evaluations of their teaching effectiveness in the out-of-endorsement assignments;

(c) Such teaching assignments shall be approved by a formal vote of the local school board for each teacher so assigned; and

(d) The assignment of such teachers for the previous school year shall be reported annually to the professional educator standards board by the employing school district as required by WAC 180-16-195. Included in the report shall be the number of teachers in out-of-endorsement assignments and the specific assistance being given to the teachers.

(2) Teachers with initial, residency, endorsed continuing, or professional teacher certificates who have not completed provisional status with a school district under RCW 28A.405.220 may be assigned to one out-of-endorsement assignment for a maximum of two periods (not more than forty percent full-time equivalent) a day. Conditions

described in subsection (1)(a) through (d) of this section shall apply to teachers so assigned.

(3) After August 31, 2000, a teacher who has completed twenty-four quarter credit hours (sixteen semester credit hours) of course work applicable to a special education endorsement shall be eligible for a waiver from the special education office which will allow that person to be employed as a special education teacher. All remaining requirements shall be completed within five years of service as a special education teacher. Teachers who hold certificates endorsed in special education or who have received waivers from the special education office prior to September 1, 2000, shall not be affected by the requirements of this subsection.

(4) After September 1, 2009, a teacher who has completed eighteen quarter credit hours (twelve semester credit hours) of course work applicable to an endorsement, other than special education for which subsection (3) of this section applies, shall be eligible for a conditional waiver from the professional educator standards board. Approved conditional waivers will allow a teacher to be employed in the subject matter area for which they do not hold the endorsement as long as they verify enrollment in an endorsement program within six months of their assignment and attain the full endorsement within four years. Application for a conditional waiver shall be made by both teachers and districts to the professional educator standards board.

WSR 08-12-076

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed June 3, 2008, 3:00 p.m., effective July 4, 2008]

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

Purpose: The purpose of adopting WAC 246-815-260 Off-site supervision is to provide a definition of off-site supervision for dental hygienists to provide services in senior centers. The adopted rules define off-site supervision.

Statutory Authority for Adoption: RCW 18.29.130 and 18.29.056.

Adopted under notice filed as WSR 08-04-113 on February 6, 2008.

A final cost-benefit analysis is available by contacting Jennifer Bressi, P.O. Box 47867, Olympia, WA 98507-7867, phone (360) 236-4893, fax (360) 664-9077, e-mail jennifer.bressi@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: June 2, 2008.

Mary C. Selecky
Secretary

NEW SECTION

WAC 246-815-260 Off-site supervision. Off-site supervision means that a licensed dental hygienist has entered into a written practice plan under RCW 18.29.056 with a dentist licensed in Washington. The dentist must agree to be available for contact as documented in the practice plan. The dental hygienist must submit the practice plan to the department for approval. Off-site supervision does not require the physical presence of the supervising dentist at the treatment site.

WSR 08-12-094
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed June 4, 2008, 9:05 a.m., effective July 5, 2008]

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

Purpose: Recommend changes to WAC 392-410-315 Equivalency course of study, credit for work based learning. Clarification of existing requirements to support improved student learning and safety, liability and accountability for all stakeholders to: *Ensure that all students are able to access work-based learning. *Better differentiate and define terms used in the current WAC language. *Update alignment with related policies and state agencies.

Citation of Existing Rules Affected by this Order: Amending WAC 392-410-315.

Statutory Authority for Adoption: RCW 28A.305.130.

Adopted under notice filed as WSR 08-07-052 on March 14, 2008.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: June 4, 2008.

Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 08-04-074, filed 2/4/08, effective 3/6/08)

WAC 392-410-315 Equivalency course of study—Credit for work based learning. School districts may accept worksite learning in lieu of either required or elective high school credits if such worksite learning meets the standards under subsections (1) through (5) of this section. Comprehensive guidelines are available on the OSPI web site in the ~~((work based learning coordination manual/guidelines))~~ worksite learning manual.

(1) Definitions:

(a) "Work based learning" means a learning experience that connects knowledge and skills obtained in the classroom to those needed outside the classroom, and comprises a range of activities and instructional strategies designed to assist students in developing or fulfilling their education plans.

(b) "Worksite learning" means a learning experience that occurs at a qualified worksite outside the classroom in fulfillment of a student's educational or career plan through the coordination of a ~~((work based))~~ worksite learning ~~((certified))~~ certified teacher. Direct instruction and supervision is provided by a qualified worksite supervisor.

(c) "Worksite learning coordinator" means a ~~((certified))~~ certified school district employee responsible for coordinating worksite learning experiences. For career and technical education programs, the coordinator must possess a ~~((work based))~~ worksite learning certificate (WAC 181-77-068). For noncareer and technical education programs, the coordinator must successfully demonstrate competencies related to coordination techniques as verified by a professional educator standards board approved program.

(d) "Worksite supervisor" means a qualified adult from the worksite responsible for overseeing the worksite learning experience and acting as liaison between the worksite and school district.

(e) ~~((Work based))~~ Worksite learning agreement means a contract that specifies the terms and conditions under which the worksite learning experience shall occur. It is agreed to and signed by the school district, worksite supervisor, student, and the student's parents/guardians.

(f) "Program orientation" means a meeting conducted by a worksite learning coordinator giving information to a worksite supervisor about the ~~((work based))~~ worksite learning program of the school. The orientation clarifies program objectives, establishes support systems, and delineates the responsibilities and rights of the various parties—school/district, worksite, students, and parents/guardians. The worksite learning coordinator qualifies the worksite and the worksite supervisor.

(g) ~~((New))~~ Employee orientation means training for the student facilitated by a worksite supervisor or designee (e.g., human resources). This is necessary for students in cooperative worksite learning and instructional worksite learning experiences. The orientation includes worksite safety procedures and practices, workers' rights and responsibilities, issues related to harassment, and employer policies, procedures and expectations. The orientation shall also include a description of the formal accident prevention program of the worksite.

(h) "Instructional worksite learning" means a learning experience that takes place in the community (or school if the experience is comparable to that in a community setting) as part of a specific course content where the student performs tasks in order to gain desired skills, competencies, qualifications or industry certifications through direct instruction.

(i) "Cooperative worksite learning" means a learning experience where a student practices in the community (or school if the experience is comparable to that in a community setting) the skills and knowledge learned in the classroom. An employer/employee relationship must exist if the work performed by the student results in a net increase in productivity or profitability for the business or organization.

(j) "Qualifying class" means any high school class previously completed (successfully) or concurrently taken that directly connects the knowledge and skills learned in the class to opportunities provided by the worksite learning experience. For career and technical education funding, "qualifying classes" mean classes approved for career and technical education in the district offering worksite learning credit.

(2) The student shall be placed in a worksite that is appropriate to ~~((the))~~ his or her previous learning experience and educational goals which shall be formalized through a worksite learning agreement and worksite learning plan. The worksite learning experience shall be connected to the student's high school and beyond plan (WAC 180-51-061). The student must have taken or be concurrently enrolled in a qualifying class.

(a) The worksite learning plan shall articulate the connection between the education plan of the student and the ~~((work-based))~~ worksite learning experience.

(b) Evaluation of learning progress related to the worksite learning plan shall ~~((articulate clear, measurable learning objectives))~~ occur during the worksite learning experience.

(c) Evaluation of learning progress related to the worksite learning plan shall occur during the work based learning experience.

(i) Learning objectives shall be evaluated and updated on a regular basis as outlined in the worksite learning agreement.

(ii) Documentation of progress shall be on file in the district as outlined in the worksite learning agreement.

(3) The worksite learning experience shall be supervised by the school. A worksite learning coordinator shall be responsible for:

(a) Aligning the worksite learning experience to the education plan of the student;

(b) Identifying and developing ~~((work-based))~~ worksite learning sites, establishing ~~((work-based))~~ worksite learning agreements and ~~((work-based))~~ worksite learning plans, orienting and coordinating with a worksite supervisor on the ~~((work-based learning site))~~ worksite, and assessing and reporting student progress;

(c) Ensuring that a worksite supervisor:

(i) Has received an orientation on the worksite learning program of the school prior to placement of the student on the worksite; ~~((and))~~

(ii) Has provided the student with a new-employee orientation upon placement; ~~((and~~

~~((d) Applying))~~ (iii) Applies legal requirements of the employment of minors in accordance with chapters 296-125

and 296-131 WAC, particularly on issues of occupational health and safety, discrimination, harassment, worker/employer rights and responsibilities, and work rules for minors; ~~((and~~

~~((e))~~ (d) Possessing a valid Washington state secondary teaching certificate (chapter 181-79A or 181-77 WAC); ~~((and~~

~~((f))~~ (e) Successfully demonstrating competencies related to coordination techniques as verified by a professional educator standards board approved program; and

(f) Supervising the experience and communicating with the worksite supervisor when not on-site.

(4) ~~((One))~~ A 1.0 credit may be granted for no less than one hundred eighty hours for instructional worksite learning experience, and not less than three hundred sixty hours of cooperative worksite learning experience, or one credit may be granted on a competency basis as provided under WAC 180-51-050 (1)(b).

(a) A student participating in an instructional worksite learning experience shall receive instruction supervised by the school. The worksite learning coordinator oversees the experience but does not need to be on-site with the student during the entire experience unless specific accommodations and a plan to address those accommodations are on file with the district requiring direct supervision of the student at the worksite. The student shall be sixteen years of age or older unless under direct supervision of a school district employee.

Career and technical education approved instructional worksite learning ~~((experience))~~ shall be coordinated by a certificated ~~((work-based))~~ worksite learning coordinator who is also certificated in the program area where credit is offered.

(b) A student participating in a cooperative worksite learning experience shall be legally employed if the work being performed by the student results in a net increase in productivity or profitability for the business or organization. The student shall be sixteen years of age or older.

(i) Career and technical education approved cooperative worksite learning shall be coordinated by a certificated worksite learning coordinator.

(ii) The cooperative worksite learning experience shall be a direct extension of a qualifying ~~((course))~~ class.

(5) The superintendent of public instruction shall report biennially at the state board's fall meeting on the use of the ~~((work-based))~~ worksite learning credit option authorized in this section.

WSR 08-12-109

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed June 4, 2008, 11:00 a.m., effective July 5, 2008]

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

Purpose: See Reviser's note below.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 08-07-098 on March 19, 2008.

Changes Other than Editing from Proposed to Adopted Version: See Reviser's note below.

A final cost-benefit analysis is available by contacting Jamie Scibelli, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-4568, fax (360) 902-5619, e-mail Scij235@lni.wa.gov.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 7, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 7, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, Amended 0, Repealed 0.

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

Date Adopted: June 4, 2008.

Judy Schurke
Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 08-13 issue of the Register.