

WSR 05-23-002
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 3, 2005, 8:40 a.m., effective December 4, 2005]

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

Purpose: Factory assembled structures, chapters 296-150C, 296-150F, and 296-150V WAC, the electrical program adopted rules that directly impact the factory assembled structure rules. The factory assembled structure rules reference the electrical rules, which now states electrical plan reviews are not required for structures under 400 amp electrical service. Examples of these types of buildings are portable classrooms, educational facilities, city or county jail cells, prisons, small hospitals, MRI structures, or medical clinics. The factory assembled structure statute clearly states the program needs to conduct plan review on all systems within the structure. Therefore, we are adopting this rule making to ensure the statute and rules are consistent.

Citation of Existing Rules Affected by this Order: Amending WAC 296-150C-0020 What definitions apply to this chapter?, 296-150C-0320 What must I provide with my request for commercial coach design-plan approval by the department?, 296-150C-3000 Commercial coach fees, 296-150F-0020 What definitions apply to this chapter?, 296-150F-0320 What must I provide with my request for design-plan approval by the department?, 296-150F-3000 Factory-built housing and commercial structure fees, 296-150V-0020 What definitions apply to this chapter?, 296-150V-0320 What must I provide with my request for conversion vendor unit or medical unit design-plan approval by the department?, and 296-150V-3000 Conversion vendor units and medical units—Fees.

Statutory Authority for Adoption: Chapter 43.22 RCW.

Adopted under notice filed as WSR 05-19-088 on September 20, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 9, Repealed 0.

Date Adopted: November 3, 2005.

Gary Weeks
 Director

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150C-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, fire and life safety, or the plumbing, mechanical, and electrical systems of a commercial coach.

The following are not considered alterations:

- Repairs with approved parts;
- Modification of a fuel-burning appliance according to the listing agency's specifications; or
- Adjustment and maintenance of equipment.

"Approved" is approved by the department of labor and industries.

"Building site" is a tract, parcel, or subdivision of land on which a commercial coach will be installed.

"Consumer" is a person or organization, excluding a manufacturer or dealer of commercial coaches, who buys or leases a commercial coach.

"Commercial coach" is a structure (referred to as a unit) that:

- Can be transported in one or more sections;
- Is used for temporary commercial purposes;
- Is built on a permanent chassis;
- Conforms to the construction standards of this chapter;
- May include plumbing, mechanical, electrical and other systems.

Note: A commercial coach may not be used as a single-family dwelling or hazardous storage building. A commercial coach does not have to be placed on a permanent foundation.

"Damaged in transit" means damage that affects the integrity of a structural design or any of the systems.

"Dealer" is a person, company, or corporation whose business is leasing, selling, offering for lease or sale, buying, or trading commercial coaches.

"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 plan for the construction or alteration of a commercial coach or conversion of a vehicle to a commercial coach including floor plans, elevation drawings, specifications, engineering data, or test results necessary for a complete evaluation of the design.

"Design option" is a design that a manufacturer may use as an option to its commercial coach design plan.

"Educational facility" is a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, conversion to, or alteration of a commercial coach.

"Factory assembled structure (FAS) advisory board" is a board authorized to advise the director of the

department regarding the issues and adoption of rules relating to commercial coaches. (See RCW 43.22.420.)

"Health or personal care facilities" are buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. (Further defined in WAC 296-46B-010).

"Insignia" is a label that we attach to a commercial coach to verify that the structure meets the requirements of this chapter and the applicable codes.

"Install" is to erect, construct, assemble, or set a commercial coach in place.

"Institutional facility" is a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

"Labeled" is to bear the department's insignia.

"Listed" is a piece of equipment or apparatus that has been approved by a testing agency to the appropriate standard.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the installation of a commercial coach.

"Master design plan" is a design plan that expires when a new state building code has been adopted.

"One-year design plan" is a design plan that expires one year after approval or when a new state building code has been adopted.

"System" is part of a commercial coach designed to serve a particular function. Examples include structural, plumbing, electrical, or mechanical systems.

AMENDATORY SECTION (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

WAC 296-150C-0320 What must I provide with my request for commercial coach design-plan approval by the department? All requests for design-plan approval must include:

(1) A completed design-plan approval request form;

(2) Two sets of design plans plus elevation drawings, specifications, engineering analysis, and test results and procedures necessary for a complete evaluation of the design; (See WAC 296-150C-0340 and 296-150C-0350.)

(3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations pre-

pared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:

(a) Identify which drawings have been reviewed by drawing number and date;

(b) Include a statement that the plans are in compliance with current Washington state regulations; and

(c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;

(4) Receipt of a one-time initial design plan filing fee and the initial design plan fee (see WAC 296-150C-3000);

(5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules;

(6) The occupancy class of the commercial coach according to the occupancy classifications in The Uniform Building Code;

(7) ~~((All plans required by WAC 296-46-140 (Plan review for educational, institutional or health care facilities and other buildings) must be reviewed by the department. The department's fee for this plan review is listed in the fee table in WAC 296-150C-3000, Commercial coach fees.))~~ Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That loads and service/feeder conductors are calculated and sized according to the proper NCE or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(8) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(9) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320, 180-29, and 388-97 WAC as applicable and stamped with the engineer's mark and signature.

(10) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alter-

ation in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply

additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

AMENDATORY SECTION (Amending WSR 05-12-032, filed 5/24/05, effective 6/30/05)

WAC 296-150C-3000 Commercial coach fees.

INITIAL FILING FEE	\$32.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$222.80
INITIAL FEE - ONE YEAR DESIGN	\$91.20
RENEWAL FEE	\$38.60
RESUBMIT FEE	\$65.10
ADDENDUM (Approval expires on same date as original plan)	\$65.10
ELECTRONIC PLAN SUBMITTAL FEE \$4.90 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 (((When required by chapter 296-46B WAC:)) Plan review for educational, institutional or health care facilities and other buildings)	
Electrical Plan submission fee	\$65.10
Service/feeder Ampacity:	
0 - 100	\$28.80
101 - 200	\$35.90
201 - 400	\$67.40
401 - 600	\$79.50
601 - 800	\$102.50
801 - 1000	\$125.40
Over 1000	\$136.10
Over 600 volts surcharge	\$21.50
Thermostats:	
First	\$12.70
Each additional	\$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	\$11.60
Each additional circuit or zone	\$2.00
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*	
	\$77.10
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders Ampacity	207 plus
Service/feeder	\$189.80
Additional Feeder	\$36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	207 plus
Service/feeder	\$100.70

Additional Feeder	\$25.70
MEDICAL GAS PLAN REVIEW:	
SUBMISSION FEE	\$62.40
FIRST STATION	\$62.40
EACH ADDITIONAL STATION	\$22.80
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	\$99.30
INITIAL FEE - ONE YEAR DESIGN	\$60.10
RENEWAL FEE	\$60.10
ADDENDUM	\$60.10
PLANS APPROVED BY PROFESSIONALS	
	\$45.30
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	
	\$12.20
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$65.10
TRAVEL (Per hour)	\$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$65.10
TRAVEL (Per hour*)	\$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$97.40
INSIGNIA FEES:	
FIRST SECTION	\$19.70
EACH ADDITIONAL SECTION	\$12.20
ALTERATION	\$32.30
REISSUED-LOST/DAMAGED	\$12.20
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$12.20
* 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 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150F-0020 What definitions apply to this chapter? "Approved" is approved by the department of labor and industries.

"Building site" is a tract, parcel, or subdivision of land on which a factory-built house or commercial structure will be installed.

~~("Closed construction" is a factory-built house, commercial structure, or component that is not open for visible~~

~~inspection at the building site. It may enclose factory-installed structural, mechanical, electrical, plumbing, or other systems and equipment.)~~

"Commercial structure" is a structure designed or used for human habitation (such as a dormitory) or human occupancy for industrial, educational, assembly, professional, or commercial purposes. It may also include a component.

"Component" is a discrete element that cannot be inspected at the time of installation either in the factory or in a site-built unit, but is:

- Designed to be installed in a structure;
- Manufactured as a unit; and
- Designed for a particular function or group of functions.

A component may be a floor, wall panel, roof panel, plumbing wall, electrical service wall, or heating assembly.

It may also be a service core. A service core is a factory assembled, three-dimensional section of a building. It may include mechanical, electrical, plumbing, and related systems. It may be a complete kitchen, bathroom, or utility room. Service cores are referred to as "wet boxes," "mechanical cores," or "utility cores."

Note: A roof truss is not considered a component.

"Damaged in transit" is damage that effects the integrity of the structural design or damage to any other system referenced in the codes required by the State Building Code, or other applicable codes.

"Department" is the department of labor and industries. The department may also 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 plan for the construction of factory-built housing, commercial structures, or components that includes floor plans, elevation drawings, specifications, engineering data, or test results necessary for a complete evaluation of the design.

"Design option" is a design that a manufacturer may use as an option to its design plan.

"Educational facility" is a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, installation, or alteration of factory-built housing, commercial structures, and components.

"Factory assembled structure (FAS) advisory board" is a board authorized to advise the director of the department regarding the issues and adoption of rules relating to factory-built housing, commercial structures and components. (See RCW 43.22.420.)

"Factory-built housing" is housing designed for human occupancy such as a single-family dwelling. The structure of any room is entirely or substantially prefabricated or assembled at a place other than a building site. It may

also include a component. A factory-built house is also referred to as a "modular" structure. Factory-built housing does not include manufactured (mobile) housing. (See RCW 43.22.450(3).)

"Health or personal care facilities" are buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. (Further defined in WAC 296-46B-010.)

"Insignia" is a label that we attach to a structure to verify that a factory-built house or commercial structure meets the requirements of this chapter. It could also be a stamp or label attached to a component to verify that it meets the requirements of this chapter.

"Install" is to erect or set in place a structure at a building site. It may also be the construction or assembly of a component as part of a factory-built house or commercial structure.

"Institutional facility" is a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

"Listed" is a piece of equipment, a component, or an installation that appears in a list published by a testing or listing agency and is suitable for use in a specified manner.

"Listing agency" is an organization whose business is approving equipment, components, or installations for publication.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the installation of factory-built housing and commercial structures.

"Master design plan" is a design plan that expires when a new State Building Code has been adopted.

"Manufacturing" is making, fabricating, forming, or assembling a factory-built house, commercial structure, or component.

"One-year design plan" is a design plan that expires one year after approval or when a new State Building Code has been adopted.

"Repair" is the replacement, addition, modification, or removal of any construction, equipment, system, or installation to correct damage in transit or during on-site installation before occupancy.

"Unit" is a factory-built house, commercial structure, or component.

AMENDATORY SECTION (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

WAC 296-150F-0320 What must I provide with my request for design-plan approval by the department? All requests for design-plan approval must include:

- (1) A completed design-plan approval request form;
- (2) One complete set of design plans, specifications, engineering analysis, test procedures and results plus one additional set for each manufacturing location where the design plan will be used (see WAC 296-150F-0340 and 296-150F-0350);
- (3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:
 - (a) Identify which drawings have been reviewed by drawing number and date;
 - (b) Include a statement that the plans are in compliance with current Washington state regulations; and
 - (c) The report shall be stamped and signed by the reviewer.
 Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;
- (4) A one-time initial filing fee and the design-plan fee (see WAC 296-150F-3000); and

(5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules.

(6) Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That loads and service/feeder conductors are calculated and sized according to the proper NCE or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(7) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(8) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320, 180-29, and 388-97 WAC as applicable and stamped with the engineer's mark and signature.

(9) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

AMENDATORY SECTION (Amending WSR 05-12-032, filed 5/24/05, effective 6/30/05)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

INITIAL FILING FEE	\$57.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (CODE CYCLE)	\$282.80
INITIAL FEE - ONE YEAR DESIGN	\$165.70
RENEWAL FEE	\$57.30
RESUBMIT FEE	\$82.80
ADDENDUM (Approval expires on same date as original plan.)	\$82.80
ELECTRONIC PLAN SUBMITTAL FEE \$4.80 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 ((When required by chapter 296-46A WAC;)) Plan review for educational, institutional or health care facilities and other buildings):	
Electrical Plan submission fee	\$63.10

Service/feeder Ampacity:		
0	- 100	\$28.00
101	- 200	\$34.90
201	- 400	\$65.30
401	- 600	\$77.10
601	- 800	\$99.30
801	- 1000	\$121.50
	Over 1000	\$131.80
Over 600 volts surcharge		\$20.90
Thermostats:		
	First	\$12.40
	Each additional	\$3.00
Low voltage fire alarm and burglar alarm:		
	Each control panel and up to four circuits or zones	\$11.30
	Each additional circuit or zone	\$2.00
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*		\$74.60
ELECTRICAL COMMERCIAL/INDUSTRIAL		
	Electrical Service /feeders Ampacity	207 plus
	Service/feeder	\$189.80
	Additional Feeder	\$36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL		
	Electrical Service/feeders	207 plus
	Service/feeder	\$100.70
	Additional Feeder	\$25.70
MEDICAL GAS PLAN REVIEW:		
	SUBMISSION FEE	\$78.60
	FIRST STATION	\$78.60
	EACH ADDITIONAL STATION	\$28.60
RECIPROCAL PLAN REVIEW:		
	INITIAL FEE-MASTER DESIGN	\$126.50
	INITIAL FEE-ONE YEAR DESIGN	\$76.50
	RENEWAL FEE	\$76.50
	ADDENDUM	\$76.50
PLANS APPROVED BY DESIGN PROFESSIONALS		\$57.30
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS		\$14.80
DEPARTMENT INSPECTION FEES		
	INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$73.30
	TRAVEL (Per hour*)	\$73.30
	PER DIEM**	
	HOTEL***	
	MILEAGE**	

RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$73.30
TRAVEL (Per hour*)	\$73.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$233.80
EACH ADDITIONAL SECTION	\$21.20
REISSUED-LOST/DAMAGED	\$57.30
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$73.30
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	\$31.80
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$11.90
* 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 03-12-044, filed 5/30/03, effective 6/30/03)

WAC 296-150V-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction for concentrated floor loads, fire and life safety, or the plumbing, mechanical, and electrical systems of a conversion vendor unit or medical unit.

The following are not considered alterations:

- Repairs with approved parts;
- Modifications of a fuel-burning appliance according to the listing agency's specifications; or
- Adjustment and maintenance of equipment.

"Approved" is approved by the department of labor and industries.

"Consumer" is a person or organization, excluding a manufacturer or dealer of conversion vendor units or medical units, who buys or leases a conversion vendor unit or medical unit.

"Conversion vendor unit" means a motor vehicle or other structure that has been converted or built for the purpose of being used for commercial sales at temporary locations. The units must be 8 feet 6 inches or less in width (exterior floor measurement) in the set-up position, and the inside working area must be less than 40 feet in length (interior floor measurement). Conversion vendor units:

- Are transported in only one section;
- Are designed for highway use;
- Are temporarily occupied for distribution of items, e.g., food;

- Are built on a permanent chassis; and
- Include at least one of the following systems: Plumbing, mechanical or 120 and/or 240 volt electrical.

Note: The conversion vendor unit may NOT include a dining area.

"Damaged in transit" means damage that affects the integrity of a concentrated floor load design or any of the systems.

"Dealer" is a person, company, or corporation whose business is leasing, selling, offering for lease or sale, buying, or trading conversion vendor units, or medical units.

"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, P.O. Box 44440, Olympia, WA 98504-4440.

"Design plan" is a plan for the construction or alteration of a conversion vendor unit or medical unit or conversion of a vehicle to a conversion vendor unit or medical unit including floor plans, specifications, or test results necessary for a complete evaluation of the design, if applicable.

"Design option" is a design that a manufacturer may use as an option to its conversion vendor unit or medical unit design plan.

"Educational facility" is a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, conversion to, or alteration of a conversion vendor unit or medical unit.

"Factory assembled structure (FAS) advisory board" is a board authorized to advise the director of the department regarding the issues and adoption of rules relating to conversion vendor units and medical units.

"Health or personal care facilities" are buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. (Further defined in WAC 296-46B-010.)

"Insignia" is a label that we attach to a conversion vendor unit or medical unit to verify that the structure meets the requirements of this chapter and the applicable codes.

"Install" is to erect, construct, assemble, or set a conversion vendor unit or medical unit in place.

"Institutional facility" is a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

"Labeled" is to bear the department's insignia.

"Listed" is a piece of equipment or apparatus that has been approved by a testing agency to the appropriate standard.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the installation of a conversion vendor unit or medical unit.

"Medical unit" is a type of self-propelled unit used to provide medical examinations, treatments, and medical and dental services or procedures, not including emergency response vehicles, and which:

- Is transportable;
- Is temporarily placed and used;
- Is built on a permanent chassis;
- Includes at least one system;
- Is for temporary use only.

"One-year design plan" is a design plan that expires one year after approval or when a new state building code has been adopted.

"System" is part of a conversion vendor unit or medical unit designed to serve a particular function. Examples include plumbing, electrical, or mechanical systems.

AMENDATORY SECTION (Amending WSR 99-18-069, filed 8/31/99, effective 10/1/99)

WAC 296-150V-0320 What must I provide with my request for conversion vendor unit or medical unit design-plan approval by the department? (1) All requests for design-plan approval must include:

- (a) A completed design-plan approval request form;
- (b) Two sets of design plans, specifications and test results and procedures necessary for a complete evaluation of the design;
- (c) Receipt of the design-plan fee listed in WAC 296-150V-3000;
- (d) Receipt of the initial design-plan filing fee and the initial design-plan fee.

(2) If a structural analysis or test is required for a concentrated floor load, at least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under the engineer or architect's direct supervision shall be signed, dated and stamped with his or her seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed and he or she must prepare a report concerning the plans. This report must:

- (a) Identify which drawings have been reviewed by drawing number and date;
 - (b) Include a statement that the plans are in compliance with current Washington state regulations; and
 - (c) Be stamped and signed by the reviewer.
- (3) Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp.

(4) ((All plans required by WAC 296-46-140, plan review for health care facilities, require a separate electrical plan review and electrical plan review fees (see fees in WAC 296-150V-3000-)) Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

- (a) That loads and service/feeder conductors are calculated and sized according to the proper NCE or WAC article or section;
- (b) The classification of hazardous locations; and
- (c) The proper design of emergency and standby systems.

(5) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(6) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the

direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320, 180-29, and 388-97 WAC as applicable, and stamped with the engineer's mark and signature.

(7) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alter-

ation in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

AMENDATORY SECTION (Amending WSR 05-12-032, filed 5/24/05, effective 6/30/05)

WAC 296-150V-3000 Conversion vendor units and medical units—Fees.

INITIAL FILING FEE	\$32.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$222.80
INITIAL FEE - ONE YEAR DESIGN	\$91.20
RENEWAL FEE	\$38.90
RESUBMIT FEE	\$65.10
ADDENDUM (Approval expires on same date as original plan)	\$65.10
ELECTRONIC PLAN SUBMITTAL FEE \$4.80 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.	
<u>ELECTRICAL PLAN REVIEW</u> (Plan review for educational, institutional or health care facilities and other buildings)	
Electrical plan submission fee	\$65.10
Service/feeder ampacity:	
0 - 100	\$28.80
101 - 200	\$35.90
201 - 400	\$67.40
401 - 600	\$79.50
601 - 800	\$102.50
801 - 1000	\$125.40
Over 1000	\$136.10
Over 600 volts surcharge	\$21.50
Thermostats:	
First	\$12.70
Each additional	\$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	\$11.60
Each additional circuit or zone	\$2.00
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*	\$77.10
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	\$99.30
INITIAL FEE - ONE YEAR DESIGN	\$60.10
RENEWAL FEE	\$60.10

ADDENDUM	\$60.10
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$12.20
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$65.10
TRAVEL (Per hour)*	\$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$97.40
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$65.10
TRAVEL (Per hour*)	\$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$18.80
ALTERATION	\$32.30
REISSUED-LOST/DAMAGED	\$12.20
EXEMPT	\$32.30
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders Ampacity	207 plus
Service/feeder	\$189.80
Additional Feeder	\$36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	207 plus
Service/feeder	\$100.70
Additional Feeder	\$25.70
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

WSR 05-23-003

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed November 3, 2005, 10:03 a.m., effective December 4, 2005]

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

Purpose: The purpose of this rule making is to adopt and modify the 2003 Edition of the Manual on Uniform Traffic Control Devices for use in Washington state.

Citation of Existing Rules Affected by this Order: Repealing WAC 468-95-110, 468-95-130, 468-95-170, 468-95-240, 468-95-315, 468-95-320 and 468-95-400; and

amending WAC 468-95-010, 468-95-120, 468-95-140, 468-95-150, 468-95-160, 468-95-190, 468-95-210, 468-95-220, 468-95-250, 468-95-260, 468-95-270, 468-95-280, 468-95-300, 468-95-310, 468-95-330, 468-95-340, and 468-95-370.

Statutory Authority for Adoption: Chapter 34.05 RCW and RCW 46.36.030.

Adopted under notice filed as WSR 05-19-141 on September 21, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 32, Amended 17, Repealed 7; 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: October 31, 2005.

John L. Conrad
Assistant Secretary
of Transportation

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-010 General. The ((June 2001 Millennium)) 2003 Edition of the Manual on Uniform ((Streets and Highway)) Traffic Control Devices for Streets and Highways (MUTCD), published by the Federal Highway Administration and approved by the Federal Highway Administrator as the national standard for all highways open to public travel, was duly adopted by the Washington state secretary of transportation. Revisions are incorporated into the November 2003 Edition of the MUTCD, except as may be modified herein, when published by the Federal Highway Administration. The manual includes in part many illustrations, some of which depend on color for proper interpretation. The code reviser has deemed it inexpedient to convert these regulations and illustrations to the prescribed form and style of WAC and therefore excludes them from publication. The document is available for public inspection at the headquarters office and all region offices of the Washington state department of transportation. Further, each city, town, and county engineering office in the state will have a copy of the MUTCD, with revisions and modifications for Washington, in its possession.

NEW SECTION

WAC 468-95-015 Compliance dates. On page I-5 of the introduction, the reference to Section 3B.19 is revised to read:

Pavement word and symbol markings - The Department of Transportation's Standard Plans illustrate the typical size and spacing of lane-use arrows for two-way left-turn lanes. Compliance with the Standard Plans shall be achieved when lane-use arrows, in existence in two-way left-turn lanes on December 31, 2004, have completed their life cycle and require replacement.

NEW SECTION

WAC 468-95-027 Stop sign placement. Amend the first paragraph of the first standard of MUTCD Section 2B.06 to read:

The STOP sign shall be installed on the right side of the approach to which it applies. When the STOP AHEAD sign is installed at this required location, see Section 2C.29 and Table 2C-4 to determine if a STOP AHEAD sign is required in advance of the STOP sign.

NEW SECTION

WAC 468-95-033 In-street pedestrian crossing sign (R1-6a). Delete sign R1-6 from MUTCD Figure 2B-2, and amend MUTCD Section 2B.12 to read:

Option:

The In-Street Pedestrian Crossing (R1-6a) sign (see Figure 2B-2) may be used to remind road users of laws regarding right of way at an unsignalized pedestrian crossing. The legend STATE LAW may be shown at the top of the sign if applicable. The legend STOP FOR may be used in conjunction with the appropriate symbol.

Guidance:

If an island (see Chapter 3G) is available, the In-Street Pedestrian Crossing sign, if used, should be placed on the island.

Standard:

The In-Street Pedestrian Crossing sign shall not be used at signalized locations.

The STOP FOR legend shall only be used in States where the State law specifically requires that a driver stop for a pedestrian in a crosswalk.

If used, the In-Street Pedestrian Crossing sign shall have a black legend (except for the red STOP sign symbol) and border on either a white and/or fluorescent yellow-green background.

If the In-Street Pedestrian Crossing sign is placed in the roadway, the sign support shall comply with the breakaway requirements of the latest edition of AASHTO's "Specification for Structural Supports for Highway Signs, Luminaries, and Traffic Signals" (see Page i).

Support:

The provisions of Section 2A.18 concerning mounting height are not applicable for the In-Street Pedestrian Crossing sign.

Option:

The In-Street Pedestrian Crossing sign may be used seasonally to prevent damage in winter because of plowing operations, and may be removed at night where pedestrian activity is minimal.

NEW SECTION

WAC 468-95-045 Speed limit sign (R2-1). Revise MUTCD Section 2B.13 to read:

Standard:

Speed Limits (R2-1) signs (see Figure 2B-1) shall display the speed limit established by statute; or, by an ordinance or regulation adopted by the authorized agency, based on the engineering study or traffic investigation required by RCW 46.61.405, 46.61.410, and 46.61.415. The speed limit shall be set in multiples of 10 km/h or 5 mph.

Guidance:

Authorized agencies should reevaluate speed limits on segments of their roadways that have undergone a significant change in roadway characteristics or surrounding land use since the last review.

No more than three speed limits should be posted on any one Speed Limit sign or assembly.

When evaluating speed limits, the following factors should be considered:

A. The 85th percentile speed of vehicles traveling on the road;

B. Road characteristics, shoulder condition, grade, alignment, and sight distance;

C. The pace speed;

D. Roadside development and environment;

E. Parking practices and pedestrian activity;

F. Reported crash experience for at least a 12 month period; and

G. Other factors such as route development or comprehensive plans.

Option:

Two types of Speed Limit signs may be used: One to designate passenger car speeds, including any nighttime information or minimum speed that may apply; and, the other to show any special speed limits for trucks and other vehicles.

A changeable message sign that changes the speed limit for traffic and ambient conditions may be installed provided that the appropriate speed limit is shown at the proper times.

A changeable message sign that displays to drivers the speed at which they are traveling may be installed in conjunction with a Speed Limit sign.

Guidance:

If a changeable message sign displaying approach speeds is installed, the legend YOUR SPEED XX km/h (mph) or such similar legend should be shown. The color of the changeable message legend should be a yellow legend on a black background or the reverse of these colors.

Support:

Advisory Speed signs are discussed in Sections 2C.36 and 2C.46. Temporary Traffic Control Zone Speed signs are discussed in Part 6.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-120 Traffic signal signs. Pursuant to RCW 46.61.055, amend the second Standard of MUTCD Section ((2B.40)) 2B.45 to read:

The NO TURN ON RED sign (R10-11a, R10-11b) shall be used to prohibit any right turn on red; or a left turn on red

from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn.

NEW SECTION

WAC 468-95-125 Hill blocks view sign. Delete Section 2C.14 and sign W7-6 from the MUTCD.

NEW SECTION

WAC 468-95-131 Bridge ices before road sign. Delete Section 2C.28 and sign W8-13 from the MUTCD.

NEW SECTION

WAC 468-95-132 Advisory exit, ramp, and curve speed signs (W13-2, W13-3, and W13-5). Delete the fourth paragraph of the Option statement and the Support statement from MUTCD Section 2C.36.

NEW SECTION

WAC 468-95-133 Intersection warning signs (W2-1 through W2-6). Revise the Option in MUTCD Section 2C.37 to read:

A Cross Road (W2-1) symbol sign, Side Road (W2-2 or W2-3) symbol sign, T (W2-4) symbol sign, or Y (W2-5) symbol sign (see Figure 2C-8) may be installed in advance of an intersection to indicate the intersection's presence and the possibility of turning traffic.

The Circular Intersection (W2-6) symbol sign may be installed in advance of a circular intersection. The Circular Intersection symbol sign may be accompanied by a ROUNDABOUT or a TRAFFIC CIRCLE educational plaque, as applicable.

The relative importance of the intersecting roadways may be shown by different widths of lines in the symbol.

The advance street name plaque (see Section 2C.49) may be installed above or below an Intersection Warning sign.

Add the alternate message ROUNDABOUT to the TRAFFIC CIRCLE plaque (W16-12p) in MUTCD Figure 2C-8.

NEW SECTION

WAC 468-95-134 Advisory speed plaques (W13-1). Delete the second Option statement and the Support statement from MUTCD Section 2C.46.

NEW SECTION

WAC 468-95-135 Cross traffic does not stop plaque (W4-4p). Revise the Standard in MUTCD Section 2C.50 to read:

If the W4-4p plaque is used with a STOP sign, it shall be installed below the STOP sign.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-140 Signage to regional shopping centers. Pursuant to RCW 47.36.270, a regional shopping center

may be signed as a supplemental guide sign destination from state highways in accordance with the applicable sections of MUTCD Part II-D, Guide Signs - Conventional Roads, and MUTCD Part II-E Guide Signs - Freeways and Expressways, and in accordance with subsections (1) through (8) of this section.

(1) There shall be at least 500,000 square feet of leasable retail floor space;

(2) There shall be at least three major department stores owned by national or regional retail chain organizations;

(3) The center shall be located within one highway mile of the state highway;

(4) The center shall generate at least 9,000 daily one-way vehicle trips to the center;

(5) Sufficient sign space as specified in the MUTCD shall be available for installation;

(6) Supplemental follow-through directional signing is required on county roads or city streets at key motorist decision points, if the center is not clearly visible from the point of exit from the state highway. The required supplemental follow-through directional signs shall be installed by the city or county prior to the installation of signs on the state highway;

(7) Signing on the state highway to a county road or city street that bears the name of the regional shopping center fulfills the statutory requirements for signing to those centers;

(8) The costs of materials and labor for fabricating, installing, and maintaining regional shopping center signs shall be borne by the center.

NEW SECTION

WAC 468-95-143 Street name sign (D3-1). Amend the fourth guidance of MUTCD Section 2D.38 to read:

In urban or suburban areas, especially where Advanced Street name signs are not used, the use of overhead Street Name signs should be considered. If overhead Street Name signs are used, the lettering should be at least 300 mm (12 in) high in capital letters, or 300 mm (12 in) upper-case with 225 mm (9 in) lower case letters where posted speeds are 40 mph or greater. For roads with posted speeds less than 40 mph, lettering should be 8 inch capital letters or greater. New construction should include the larger size letters for overhead signs. Internally illuminated signs may use smaller letter size.

NEW SECTION

WAC 468-95-147 General design requirements for recreational and cultural interest area symbol signs. Amend MUTCD Section 2H.04, Table 2H-1 and Figure 2H-5, to include the wildlife viewing (binocular symbol) sign and to read:

A wildlife viewing sign shall be square shaped with a white binocular symbol and border on a brown background.

NEW SECTION

WAC 468-95-148 Event signs, banners, and decorations. Add a new MUTCD Chapter 2J to read:

Chapter 2J, Event Signs, Banners, and Decorations

Pursuant to RCW 47.36.030(3) and 47.42.020(8), the department may permit signs, banners, or decorations visible to state highways that promote a local agency sponsored event in accordance with the applicable following criteria:

Standard:

A. Signs, banners, and decorations shall not interfere or obstruct the view of any traffic control device or impair the operation of transportation management systems or street illumination.

B. The sign, banner, or decoration shall not include commercial advertising as determined by the department.

C. Signs, banners, or decorations shall be mounted not less than 20 vertical feet above the roadway surface measured at any point.

D. Signs, banners, or decorations shall not be visible from Interstate highways, or other state highways having a posted speed limit of 50 miles per hour or greater.

E. Signs, banners, or decorations shall be installed no more than 30 days before and removed no more than 3 days after the local agency sponsored event.

Option:

Along multi-lane state highways a sign, banner, or decoration may be mounted vertically on luminaire posts subject to meeting wind load requirements specified by the department.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-150 No passing zone markings. Amend the third Standard of MUTCD Section 3B.02, to read:

On two-way, two- or three-lane roadways where centerline markings are installed, no-passing zones shall be established at vertical curves and other locations where an engineering study indicates that passing must be prohibited because of inadequate sight distances or other special conditions.

On two-way, two- and three-lane roadways where centerline markings are installed, no-passing zones shall be established at horizontal curves where an engineering study indicates passing must be prohibited because of inadequate sight distances or other special conditions. A January 17, 2007, compliance date is established.

On three-lane roadways where the direction of travel in the center lane transitions from one direction to the other, a no-passing buffer zone shall be provided in the center lane as shown in Figure 3B-4. A lane transition shall be provided at each end of the buffer zone.

The buffer zone shall be a median island (~~(consisting of a lane transition in each direction and a minimum of a)~~ that is at least 15 m (50 ft) ((buffer zone)) in length. ~~((In areas where no-passing zones are required because of limited passing sight distances, the buffer zone shall be the distances between the beginnings of the no-passing zones in each direction.))~~)

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-160 Other yellow longitudinal markings. Pursuant to RCW 46.61.150, amend the second Standard of MUTCD Section 3B.03 to read:

If a continuous median island formed by pavement markings separating travel in opposite directions is used, the island may be formed by two single normal solid yellow lines, a combination of two single normal solid yellow lines with yellow crosshatching between the lines with a total width not less than eighteen inches, two sets of double solid yellow lines, or a solid yellow line not less than eighteen inches in width. All other markings in the median island area shall be yellow, except crosswalk markings, which shall be white (see ((MUTCD)) Section 3B.17).

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-190 Pavement edge lines and raised pavement markers supplementing other markings. Pursuant to RCW 47.36.280, the Standard in MUTCD Section 3B.07, is revised ((as follows)) to read:

Edge lines shall be used on all interstate highways, ((~~on~~)) rural multilane divided highways, ((~~on~~)) all principal arterials and minor arterials within urbanized areas, except when curb or sidewalk exists, and may be used on other classes of roads. A jurisdiction((s)) shall conform to these requirements at such time that it undertakes to renew or install permanent markings on new or existing roadways. The edge lines shall be white, except that the edge lines shall be yellow on the left edge of each roadway of divided streets and highways and one-way roadway in the direction of travel((, the lines shall be yellow)).

Edge line markings shall also be placed on paved rural arterials with a traveled way of 6.1 m (20 ft) or more in width and an ADT of 6,000 or greater vehicles per day.

These standards shall be in effect, as provided in this section, unless the legislative authority of the local governmental body finds that special circumstances exist affecting vehicle and pedestrian safety that warrant a site-specific variance.

((Pursuant to RCW 47.36.280, the first paragraph under Option of MUTCD Section 3B.13 is revised to read as follows:

~~Raised pavement markers may also be used to supplement other markings for channelizing islands or approaches to other objects. The general use of raised pavement markers along right edge lines is strongly discouraged because they can cause steering difficulties and make bicyclists lose control of their vehicles. Raised or recessed pavement markers may be used along right edge lines on the taper in lane transition sections, on approaches to objects and within channelization at intersections. Raised or recessed pavement markers can only be used along right edge lines at other locations where an engineering study has determined the markers are essential to preserving pedestrian, bicycle, and motor vehicle safety. At the initiation of the engineering study, local bicycling organizations, the regional member of the state bicycling advisory committee, or the WSDOT bicycle and pedestrian program manager shall be notified of the study for~~

~~review and comment. Positioning and spacing of the markers in such cases must be determined by engineering judgment taking into consideration their effect on bicycle, pedestrian, and motor vehicle safety. Other applications of raised or recessed pavement markers along right edge lines of arterials are considered to be nonconforming with this section. Cities and counties shall remove nonconforming raised pavement markings at the time that they prepare to resurface roadways, or earlier at their option.~~

~~These standards shall be in effect, as provided in this section, unless the legislative authority of the local governmental body finds that special circumstances exist affecting vehicle and pedestrian safety that warrant a site-specific variance.))~~

NEW SECTION

WAC 468-95-205 Raised pavement markers supplementing other markings. Pursuant to RCW 47.36.280, amend the first paragraph of the Option in MUTCD Section 3B.13 to read:

Raised pavement markers may also be used to supplement other markings for channelizing islands or approaches to other objects. The general use of raised pavement markers along right edge lines is strongly discouraged because the markers can cause steering difficulties and make bicyclists lose control of their vehicles. Raised or recessed pavement markers may be used along right edge lines on the taper in lane transition sections, on approaches to objects, and within channelization at intersections. Raised or recessed pavement markers can only be used along right edge lines at other locations where an engineering study has determined that the markers are essential to preserving pedestrian, bicycle, and motor vehicle safety. At the initiation of the engineering study, local bicycling organizations, the regional member of the state bicycle advisory committee, or the WSDOT bicycle and pedestrian program manager shall be notified of the study for review and comment. Positioning and spacing of the markers in such cases must be determined by engineering judgment taking into consideration their effect on bicycle, pedestrian, and motor vehicle safety; and, where used, are spaced closely enough (no greater than 3 m (10 ft) apart) to approximate the appearance of a solid line. Other applications of raised or recessed pavement markers along right edge lines of arterials are considered to be nonconforming with this section. Cities and counties shall remove their nonconforming raised or recessed pavement markers at the time that they prepare to resurface roadways, or earlier at their option.

These standards shall be in effect, as provided in this section, unless the legislative authority of the local governmental body finds that special circumstances exist affecting vehicle and pedestrian safety that warrant a site-specific variance.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-210 Raised pavement markers substituting for pavement markings. Amend the first sentence in the first Standard of MUTCD Section 3B.14 to read:

If raised pavement markers are substituted for broken line markings, a group of 3 to 5 markers equally spaced at no greater than N/8 (see Section ((3A.06)) 3B-11), or at the one-

third points of the line segment if N is other than 12 m (40 ft), with a least one retroreflective or internally illuminated marker used per group.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-220 Stop and yield lines ((locations)).

Amend the second Guidance of MUTCD Section 3B.16 to read:

~~((Stop or yield lines, where used, should ordinarily be placed four feet in advance of and parallel to the nearest crosswalk line. In the absence of a marked crosswalk, the stop or yield line should be placed at the desired stopping point, in no case less than 4 feet from the nearest edge of intersecting roadway.~~

Stop lines at midblock signalized locations should be placed at least 40 feet in advance of the nearest signal indication (see MUTCD Section 4D.15). If used, stop and yield lines should be placed a minimum of 1.2 m (4 ft) in advance of the nearest crosswalk line at controlled intersections, except for yield lines at roundabout intersections as provided for in Section 3B.24 and at midblock crosswalks. In the absence of a marked crosswalk, the stop line or yield line should be placed at the desired stopping or yielding point, in no case less than 4 feet from the nearest edge of the intersecting roadway. Stop lines should be placed to allow sufficient sight distance to all other approaches to an intersection.

If used at an unsignalized midblock crosswalk, yield lines should be placed adjacent to the Yield Here to Pedestrians sign located 6.1 to 15 m (20 to 50 ft) in advance of the nearest crosswalk line, and parking should be prohibited in the area between the yield line and the crosswalk (see Figure 3B-15). Stop lines at midblock signalized locations should be placed at least 12 m (40 ft) in advance of the nearest signal indication (see Section 4D.15).

NEW SECTION

WAC 468-95-235 Preferential lane word and symbol markings. Add a guidance statement following the first Standard of MUTCD Section 3B.22 to read:

Guidance:

Preferential lane word and symbol markings may be offset up to a maximum of 1'0" from the center of the preferred-use lane to avoid vehicle wheel paths.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-250 Meaning of signal indications. Pursuant to RCW 46.61.055, amend the second paragraph of the Standard of MUTCD Section 4D.04, item C.1, to read:

Vehicle operators facing a steady circular red signal may, after stopping, proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by a competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain

stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who are lawfully within the intersection control area.

Pursuant to RCW 46.61.055, amend the Standard of MUTCD Section 4D.04, item C.2, to read:

Vehicle operators facing a steady red arrow indication may, after stopping, proceed to make a right turn from a one-way or two-way street or into a one-way street carrying traffic in the direction of the right turn, or a left turn from a one-way street or two-way street into a one-way street carrying traffic in the direction of the left turn, unless a sign posted by a competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who are lawfully within the intersection control area.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-260 Application of steady signal indications. Pursuant to RCW 46.61.055, amend the Standard of MUTCD Section 4D.05, item D, to read:

A steady RED ARROW signal indication shall be displayed when it is intended to prohibit vehicular traffic from entering the intersection or other controlled area to make the indicated turn when regulatory signing is in place prohibiting such movement. Pedestrians directed by a pedestrian signal head may enter the intersection or other controlled area.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-270 Meaning of lane-use control indications. Pursuant to RCW 46.61.072, amend the Standard of MUTCD Section 4J.02, paragraph B, to read:

A steady YELLOW X or a flashing RED X means that a driver should prepare to vacate, in a safe manner, the lane over which the signal is located because a lane control change is being made, and to avoid occupying that lane when a steady RED X is displayed.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-280 Operation of lane-use control signals. Pursuant to RCW 46.61.072, in MUTCD Section 4J.04, amend the first sentence of the first paragraph after item G in the first Standard to read:

A moving condition in one direction shall be terminated either by the immediate display of a RED X signal indication or by a YELLOW X signal indication followed by a RED X signal indication or a flashing RED X indication followed by a RED X indication.

NEW SECTION

WAC 468-95-29001 Traffic control devices for low-volume roads—Application. Change the Guidance of MUTCD Section 5A.02, Application, to become an Option and amend to read:

Additional traffic control devices and criteria contained in other Parts of the Manual may be considered for use on low-volume roads.

NEW SECTION

WAC 468-95-29003 Traffic control devices for low-volume roads—Design. Change the Guidance of MUTCD Section 5A.03, Design, to become an Option and amend to read:

Oversized sign sizes may be used where engineering judgment indicates a need based on high vehicle operating speeds, driver expectancy, traffic operations, or roadway conditions.

NEW SECTION

WAC 468-95-29005 Traffic control devices for low-volume roads—Stop and yield signs. Change the Guidance of MUTCD Section 5B.02, Stop and Yield Signs, to become an Option and amend to read:

STOP (R1-1) and YIELD (R1-2) signs (see Figure 5B-1) may be considered for use on low-volume roads where engineering judgment or study, consistent with the provisions of Sections 2B.04 to 2B.10, indicates that either of the following conditions applies:

A. An intersection of a less-important road with a main road where application of the normal right-of-way rule might not be readily apparent.

B. An intersection that has restricted sight distance for the prevailing vehicle speeds.

NEW SECTION

WAC 468-95-29007 Traffic control devices for low-volume roads—One lane bridges. Change the Guidance of MUTCD Section 5C.06, One Lane Bridges, to become an Option and amend to read:

A ONE LANE BRIDGE (W5-3) sign (see Figure 5C-2) may be used on low-volume two-way roadways in advance of any bridge or culvert:

A. Having a clear roadway width of less than 4.9 m (16 ft); or

B. Having a clear roadway width of less than 5.5 m (18 ft) when commercial vehicles constitute a high proportion of the traffic; or

C. Having a clear roadway width of 5.5 m (18 ft) or less where the approach sight distance is limited on the approach to the structure.

Additional warning may be provided on the approach to a one lane bridge or culvert by the use of object markers and/or delineators.

NEW SECTION

WAC 468-95-29009 Traffic control devices for low-volume roads—Vehicular traffic and nonvehicular signs. Change the first Guidance of MUTCD Section 5C.09, Vehicular Traffic and Nonvehicular Signs (W11 Series and W8-6), to become an Option and amend to read:

Vehicular Traffic signs (see Figure 5C-2) may be used to alert road users to frequent unexpected entries into the roadway by trucks, bicyclists, farm vehicles, fire trucks, and other vehicles. Such signs may be used only at locations where the road user's sight distance is restricted or the activity would be unexpected.

NEW SECTION

WAC 468-95-29011 Traffic control devices for low-volume roads—Centerline markings. Change the Guidance of MUTCD Section 5E.02, Centerline Markings, to become an Option and amend to read:

Centerline markings may be used on paved low-volume roads where engineering judgment or an engineering study indicates a need for them.

NEW SECTION

WAC 468-95-29013 Traffic control devices for low-volume roads—Edgeline markings. Change the Guidance of MUTCD Section 5E.03, Edgeline Markings, to become an Option and amend to read:

Edgeline Markings may be considered for use on paved low-volume roads based on engineering judgment or an engineering study.

NEW SECTION

WAC 468-95-29015 Traffic control devices for low-volume roads—Delineators. Change the Option of MUTCD Section 5E.04, Delineators, to read:

Delineators may be used on low-volume roads based on engineering judgment, such as for curves, T-intersections, and abrupt changes in the roadway width. In addition, they may be used to mark other minor roads entering the low-volume road.

NEW SECTION

WAC 468-95-29017 Traffic control devices for low-volume roads—Object markers. Change the Guidance of MUTCD Section 5E.05, Object Markers, to become an Option and amend to read:

The end of a low-volume road may be marked with an end-of-roadway marker in conformance with Section 3C.04.

NEW SECTION

WAC 468-95-29019 Traffic control devices for low-volume roads—Pavement markings. Change the Guidance of MUTCD Section 5F.05, Pavement Markings, to become an Option and amend to read:

Pavement markings at highway-rail grade crossings may be used on paved low-volume roads, if they are already

deployed at most other highway-rail grade crossings within the immediate vicinity, or when the roadway has centerline markings.

NEW SECTION

WAC 468-95-29021 Traffic control devices for low-volume roads—Markings. Change the Guidance of MUTCD Section 5G.04, Markings, to become an Option and amend to read:

Pavement markings may be considered for temporary traffic control zones on paved low-volume roads, especially roads that had existing pavement markings or that have a surfaced detour or temporary roadway.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-300 Temporary traffic control. Amend MUTCD ((Section 6C.04,)) Table 6C-1 ((and MUTCD Section 6H.01, Table 6H-3)) to read:

Sign Spacing (1)

Freeways & Expressways	55/70 MPH	1500' ± or per MUTCD
Rural Highways	60/65 MPH	((+1000)) 800' ±
Rural Roads	45/55 MPH	500' ±
Rural Roads & Urban Arterials	35/40 MPH	350' ±
Rural Roads, Urban ((Streets)) Arterials, Residential, Business Districts	25/30 MPH	200' ± (2)
Urban Streets	25 MPH or less	100' ± (2)

(1) All spacing may be adjusted to accommodate interchange ramps, at-grade intersections, and driveways.

(2) This spacing may be reduced in urban areas to fit roadway conditions.

NEW SECTION

WAC 468-95-303 Sign placement. Amend the second paragraph of the first Standard of MUTCD Section 6F.03 to read:

Signs mounted on barricades and barricade/sign combinations shall be crashworthy, in accordance with NCHRP 350, by December 31, 2007.

NEW SECTION

WAC 468-95-305 Motorcycle construction warning sign. Pursuant to RCW 47.36.200, a warning sign displaying the word message MOTORCYCLES USE EXTREME CAUTION is added to MUTCD Figure 6F-4. The sign shall be diamond shaped with black letters on an orange background.

NEW SECTION

WAC 468-95-306 Motorcycles use extreme caution supplemental plaque. A supplemental plaque displaying the

message MOTORCYCLES USE EXTREME CAUTION is added to MUTCD Figure 6F-4.

The plaque may supplement primary condition warning signs.

NEW SECTION

WAC 468-95-307 Abrupt lane edge warning sign. A warning sign displaying the word message ABRUPT LANE EDGE is added to MUTCD Figure 6F-4. The sign shall be diamond shaped with black letters on an orange background.

The sign shall be used where Section 1-07.23(1) of the Washington state department of transportation's standard specifications require warning signs to alert drivers about an elevation differential between lanes or between the outside lane and the shoulder.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-310 Temporary pavement markings. Amend ((the first Support of)) MUTCD Section 6F.66 to read:

~~((Temporary pavement markings are those that may be used until it is practical and possible to install permanent pavement markings that meet MUTCD standards. Normally, it should not be necessary to leave temporary pavement markings in place for more than 2 weeks, except on roadways being paved with bituminous surface treatment (BST) and having traffic volumes under 2,000 ADT. All temporary pavement markings, including pavement markings for no-passing zones, shall conform to the requirements of Sections 3A and 3B.~~

Amend the first Guidance of MUTCD Section 6F.66 to read:

~~For temporary situations of 14 calendar days or less, for a two-lane or three-lane road, no-passing zones may be identified by using W 14-3 No Passing Zone signs (see Section 2C.32) rather than pavement markings (see Section 3B.02). Signs may also be used in lieu of pavement markings on low-volume roads for longer periods, when this practice is in keeping with the state's or other highway agency's policy. These signs should be placed in accordance with Sections 2B.24 and 2B.25.)~~ Standard:

All temporary pavement markings shall conform to the requirements of Chapters 3A and 3B. All temporary broken-line pavement markings shall use the same cycle length as permanent markings and be at least 0.6 m (2 ft) long.

Support:

Temporary pavement markings are those that may be used until it is practical and possible to install permanent markings.

Option:

Half-cycle lengths with a minimum of 0.6 m (2 ft) stripes may be used on roadways with severed curvature (see Section 3A.05) for center lines in passing zones and for lane lines.

For temporary situations, for a two-lane or three-lane road, no-passing zones may be identified by using DO NOT PASS (R4-1), PASS WITH CARE (R4-2), and NO PASSING ZONE (W14-3) signs rather than pavement markings.

Guidance:

When used, the DO NOT PASS, PASS WITH CARE, and NO PASSING ZONE signs should be placed in accordance with Sections 2B.29, 2B.30, and 2C.35.

NEW SECTION

WAC 468-95-317 Temporary traffic control. Amend MUTCD Table 6H-3 to read:

Sign Spacing⁽¹⁾

		1500' ± or per MUTCD
Freeways & Expressways	55/70 MPH	
Rural Highways	60/65 MPH	800' ±
Rural Roads	45/55 MPH	500' ±
Rural Roads & Urban Arterials	35/40 MPH	350' ±
Rural Roads, Urban Arterials, Residential, Business Districts	25/30 MPH	200' ± ⁽²⁾
Urban Streets	25 MPH or less	100' ± ⁽²⁾

- (1) All spacing may be adjusted to accommodate interchange ramps, at-grade intersections, and driveways.
- (2) This spacing may be reduced in urban areas to fit roadway conditions.

NEW SECTION

WAC 468-95-325 In-street signs in school areas.

Delete sign R1-6 from MUTCD Figure 7B-4 and amend the first Option of MUTCD Section 7B.08 to read:

A 300 mm (12 in) reduced size in-street School Advance Warning (S1-1) sign (see Figure 7B-4), installed in compliance with the mounting height and breakaway requirements for In-Street Pedestrian Crossing (R1-6a) signs (see Section 2B.12), may be used in advance of a school crossing to supplement the ground-mounted school warning signs. A 300 mm x 150 mm (12 in x 6 in) reduced size AHEAD (W16-9p) plaque may be mounted below the reduced size in-street School Advance Warning (S1-1) sign.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-330 School speed limit assembly (S4-1, S4-2, S4-3, S4-4, S5-1). Pursuant to RCW 46.61.440 (~~delete~~), the first Guidance (~~paragraph and add the following paragraph to the first Standard of~~) in MUTCD Section 7B.11 is replaced with a Standard to read:

((The reduced school speed zone shall begin at a point 90 m (300 ft) in advance of the crosswalk and end at a point 90 m (300 ft) after the crosswalk. These distances may be modified to fit the field conditions by regulation.)) **Applicable to state highways, county roads, or city streets, the reduced school or playground speed zone shall extend for 300 feet in either direction from the marked crosswalk when the marked crosswalk is fully posted with standard school speed limit signs or standard playground speed limit signs.**

Applicable to county roads or city streets, the school or playground speed zone may extend up to 300 feet from the border of the school or playground property when fully posted with standard school speed limit signs or standard playground speed limit signs. However, the speed zone may

only include the area consistent with active school or playground use.

No school or playground speed zone may extend less than 300 feet from a marked school or playground crosswalk, but may extend by traffic regulation beyond 300 feet based on a traffic and engineering investigation.

Pursuant to RCW 46.61.440, the speed limit sign distance note in Figure 7B-3 is replaced with:

See WAC 468-95-330 for school or playground speed limit placement distances.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-340 School speed limit assembly (S4-1, S4-2, S4-3, S4-4, S5-1). Amend the (~~Option to the~~) second Standard of MUTCD Section 7B.11 to read:

The School Speed Limit assembly shall be either a fixed-message sign assembly or a changeable message sign. The fixed-message School Speed Limit assembly shall consist of a top plaque (S4-3) with the legend SCHOOL, a Speed Limit (R2-1) sign, and a bottom plaque (S4-1, S4-2, S4-4, ~~S4-6~~, or S4-501) indicating the specific periods of the day and/or days of the week that the special school speed limit is in effect (see Figure 7B-1).

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-370 Pavement markings for obstructions. Amend MUTCD (~~(Section 9C-07)~~) Figure (~~(9C-07)~~) ~~9C-8~~, to show a normal solid white line instead of a wide solid white line.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 468-95-110	Parking for the disabled in urban areas.
WAC 468-95-130	High occupancy vehicle signs.
WAC 468-95-170	White lane line markings.
WAC 468-95-240	Preferential lane longitudinal markings for motorized vehicles.
WAC 468-95-315	Motorcycle construction warning signs.
WAC 468-95-320	School advance warning sign (S-1).
WAC 468-95-400	Sign borders.

WSR 05-23-012
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed November 4, 2005, 11:40 a.m., effective January 1, 2006]

Effective Date of Rule: January 1, 2006.

Purpose: **This notice delays the effective date of the permanent rule filed as WSR 05-22-077 on October 31, 2005. The permanent rule will be effective on January 1, 2006.**

The department is amending WAC 338-478-0015 Need standards for cash assistance, in order to revise basic need standards for cash assistance.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0015.

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

Adopted under notice filed as WSR 05-19-058 on September 16, 2005.

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: November 4, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-23-013
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed November 4, 2005, 11:44 a.m., effective January 1, 2006]

Effective Date of Rule: January 1, 2006.

Purpose: The department is reinstating the children's health program for noncitizen children under age eighteen with income at or below 100% federal poverty level who are not otherwise eligible for Medicaid. This adoption also reinstates the twelve-month continuous eligibility for children's medical. When effective, the permanent rule replaces and supersedes emergency rules filed as WSR 05-22-040.

Citation of Existing Rules Affected by this Order: Amending WAC 388-418-0025, 388-424-0010, 388-450-0210, 388-505-0210, and 388-523-0130.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.530, and 74.09.415.

Adopted under notice filed as WSR 05-18-068 on September 6, 2005.

Changes Other than Editing from Proposed to Adopted Version: The department clarified WAC 388-505-0210 by changing the cross reference to the correct federal poverty level.

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 5, 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 5, Repealed 0.

Date Adopted: October 31, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-03-019, filed 1/12/04, effective 2/12/04)

WAC 388-418-0025 Effect of changes on medical program eligibility. (1) You continue to be eligible for Medicaid until the department determines your ineligibility or eligibility for another medical program. This applies to you if, during a certification period, you become ineligible for, or are terminated from, or request termination from:

(a) A CN Medicaid program; or

(b) Any of the following cash grants:

(i) TANF;

(ii) SSI; or

(iii) GA-X. See WAC 388-434-0005 for changes reported during eligibility review.

(2) If you become ineligible for refugee cash assistance, refugee medical assistance can be continued through the eight-month limit, as described in WAC 388-400-0035(4).

(3) If you receive a TANF cash grant or family medical, you are eligible for a medical extension, as described under WAC 388-523-0100, when your cash grant or family medical program is terminated as a result of:

(a) Earned income; or

(b) Collection of child or spousal support.

(4) A change in income during a certification period does affect eligibility for all medical programs except:

(a) Pregnant women's medical programs;

(b) Children's medical for newborns (F05); (~~(F06)~~)

(c) Children's medical benefits (F06);

(d) Children's Health Program (F08); or

(e) The first six months of the medical extension benefits.

(5) For a child receiving benefits under SCHIP as described in chapter 388-542 WAC, the department must redetermine eligibility for a Medicaid program when the family reports:

- (a) Family income has decreased to less than two hundred percent Federal Poverty Level (FPL);
- (b) The child becomes pregnant;
- (c) A change in family size; or
- (d) The child receives SSI.

AMENDATORY SECTION (Amending WSR 04-15-004, filed 7/7/04, effective 8/7/04)

WAC 388-424-0010 Citizenship and alien status—Eligibility restrictions for the temporary assistance for needy families program and medical benefits, including nonemergency Medicaid and the state children's health insurance program (SCHIP). (1) To receive TANF or medical benefits you must meet all other eligibility requirements and be one of the following as defined in WAC 388-424-0001:

- (a) A U.S. citizen;
- (b) A U.S. national;
- (c) An American Indian born outside the U.S.;
- (d) A "qualified alien";
- (e) A victim of trafficking; or
- (f) A Hmong or Highland Lao.

(2) A "qualified alien" who first physically entered the U.S. before August 22, 1996 as described in WAC 388-424-0006(1) may receive TANF, nonemergency Medicaid, and SCHIP benefits.

(3) A "qualified alien" who first physically entered the U.S. on or after August 22, 1996 cannot receive TANF, non-emergency Medicaid, or SCHIP for five years after obtaining status as a qualified alien unless he or she is an alien as described under WAC 388-424-0006(4).

(4) An alien who is ineligible for TANF, nonemergency Medicaid, or SCHIP because of the five-year bar or because of their immigration status may be eligible for:

(a) Emergency benefits as described in WAC (~~388-424-0018~~ ~~388-436-0015~~) 388-436-0015 (consolidated emergency assistance program) and WAC 388-438-0110 (alien emergency medical program); or

(b) State-funded cash or chemical dependency benefits as described in WAC 388-424-0015 (SFA, GA and ADATSA) and medical benefits as described in WAC 388-424-0016; or

(c) Pregnancy medical benefits as described in WAC 388-462-0015; or

(d) Children's health program as described in WAC 388-505-0210.

AMENDATORY SECTION (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

WAC 388-450-0210 Countable income for medical programs. (1) For purposes of medical program eligibility, a client's countable income is income which remains when:

- (a) The income cannot be specifically excluded; and
- (b) All appropriate deductions and disregards allowed by a specific program, have been applied.

(2) A client's countable income cannot exceed the income standard for the specific medical programs described in WAC 388-478-0065, 388-478-0070, 388-478-0075, 388-478-0080, or 388-513-1305, 388-513-1315, or 388-513-1395 unless the program allows for those limits to be exceeded.

(3) Unless modified by subsection (4) of this section, the TANF/SFA income rules, as described in this chapter, are used to determine a client's countable income for the following programs:

(a) Family medical program as described in WAC 388-505-0220;

(b) Medical extensions as described in chapter 388-523 WAC;

(c) Pregnant women's program as described in WAC 388-462-0015;

(d) Children's medical program as described in WAC 388-505-0210;

(e) Children's health program as described in WAC 388-505-0210; and

(f) ~~((Medically Indigent (MI)))~~ Psychiatric indigent inpatient (PII) program as described in WAC (~~388-438-0100~~) 388-865-0217.

(4) Exceptions to the TANF/SFA cash assistance methodology apply as follows:

(a) The financial responsibility of relatives when a client is applying for medical for families, children, pregnant women or for the ~~((medically))~~ psychiatric indigent inpatient program is specified in WAC 388-408-0055;

(b) Actual work-related child and dependent care expenses, which are the client's responsibility, are income deductions (the limits on this deduction in WAC 388-450-0170 (3) and (4) do not apply);

(c) Court or administratively ordered current or back support paid to meet the needs of legal dependents, are income deductions;

(d) Only income actually contributed to an alien client from the alien's sponsor is countable unless the sponsor signed the affidavit of support I-864 or I-864A. See subsection (5) of this section;

(e) TANF/SFA gross earned income limits as described in WAC 388-450-0165 do not apply;

(f) The fifty percent earned income deduction is not used to calculate countable income for CN programs with income levels based upon the Federal Poverty Level (FPL). These programs are listed in subsections (3)(c), (d) and ~~((d))~~ (e) of this section. The only work related income deductions for these programs are:

(i) Ninety dollars; and

(ii) Actual work-related child and dependent care expenses, as described in (b) of this subsection; and

(iii) Child support as described in (c) of this subsection.

(g) When determining medically needy (MN) or MN scope of care coverage for children or pregnant women for the programs described in subsections (3)(c) ~~((and))~~, (d), and (e), the exception described in subsection (4)(f) is not used as the MN income standards are not based on the FPL;

(h) A nonrecurring lump sum payment is considered as income in the month the client receives payment, and a resource if the client retains the payment after the month of receipt;

(i) Diversion cash assistance (DCA), is not countable income;

(j) Effective April 1, 2002, the department will disregard an increase in earned income when:

(i) A family is receiving benefits under the family medical program; and

(ii) The increase occurs during the second or third month of eligibility. The disregard stops the last day of the third month of eligibility for a family medical program.

(5) When an alien's sponsor has signed the affidavit of support I-864 or I-864A, the sponsor's income and resources are counted as described in WAC 388-450-0155, 388-450-0156, 388-450-0160, and 388-470-0060.

(6) Except when this state has adopted more liberal rules, SSI income rules are used to determine a client's countable income for the following programs:

(a) SSI-related CN or MN; and

(b) Medicare savings programs. Refer to chapter 388-475 WAC.

AMENDATORY SECTION (Amending WSR 04-15-057, filed 7/13/04, effective 8/13/04)

WAC 388-505-0210 Children's medical eligibility.

(1) A child under the age of one is eligible for categorically needy (CN) medical assistance when:

(a) The child's mother was eligible for and receiving coverage under a medical program at the time of the child's birth; and

(b) The child remains with the mother and resides in the state.

(2) Children under the age of nineteen are eligible for CN medical assistance when they meet the requirements for:

(a) Citizenship or U.S. national status as defined in WAC 388-424-0001 or "qualified alien" status as described in WAC 388-424-0006 (1) or (4);

(b) State residence as described in chapter 388-468 WAC;

(c) A social security number as described in chapter 388-476 WAC; and

(d) Family income (~~(levels)~~) does not exceed two hundred percent Federal Poverty Level (FPL) as described in WAC 388-478-0075 ((+)(e)) at each application or review.

(3) Children under the age of nineteen are eligible for the state children's health insurance program (SCHIP), as described in chapter 388-542 WAC, when:

(a) They meet the requirements of subsection (2)(a), (b), and (c) of this section;

(b) They do not have other creditable health insurance coverage; and

(c) Family income exceeds two hundred percent of the federal poverty level (FPL), but does not exceed two hundred fifty percent of the FPL as described in WAC 388-478-0075 ((+)(e) and (d)).

(4) Children under the age of twenty-one are eligible for CN medical assistance when they meet:

(a) Citizenship or immigrant status, state residence, and social security number requirements as described in subsection (2)(a), (b), and (c) of this section;

(b) Income levels described in WAC 388-478-0075; and

(c) One of the following criteria:

(i) Reside, or are expected to reside, in a medical hospital, intermediate care facility for mentally retarded (ICF/MR), or nursing facility for thirty days or more;

(ii) Reside in a psychiatric or chemical dependency facility for ninety days or more;

(iii) Are in foster care; or

(iv) Receive subsidized adoption services.

(d) For a child meeting the criteria (c)(i) of this subsection, the only parental income the department considers available to the child is the amount the parent chooses to contribute.

(e) For a child meeting the criteria in (c)(ii) of this subsection, parental income is counted as described in WAC 388-408-0055 (1)(c).

(5) Children are eligible for CN medical assistance if they:

(a) Receive Supplemental Security Income (SSI) payments based upon their own disability; or

(b) Received SSI cash assistance for August 1996, and except for the August 1996 passage of amendments to federal disability definitions, would be eligible for SSI cash assistance.

(6) Children under the age of nineteen are eligible for medically needy (MN) medical assistance as defined in chapter 388-500 WAC when they:

(a) Meet citizenship or immigrant status, state residence, and social security number requirements as described in subsection (2)(a), (b), and (c); and

(b) Have income above ~~((the income levels))~~ two hundred fifty percent federal poverty level (FPL) as described in WAC 388-478-0075 ((+)(e)).

(7) A child is eligible for SSI-related MN when the child:

(a) Meets the blind and/or disability criteria of the federal SSI program or the condition in subsection (5)(b); and

(b) Has countable income above the level described in WAC 388-478-0070(1).

(8) Noncitizen children under the age of eighteen, including visitors or students from another country, undocumented children and "qualified alien" children as defined in WAC 388-424-0001 who are ineligible due to the five-year bar as described in WAC 388-424-0006(3), are eligible for the state-funded children's health program, if:

(a) The department determines the child ineligible for any CN or MN scope of care medical program;

(b) Family income does not exceed one hundred percent Federal Poverty Level (FPL) as described in WAC 388-478-0075;

(c) They meet state residence as described in chapter 388-468 WAC; and

(d) Program limits established by the legislature would not result in an overexpenditure of funds.

(9) There are no resource limits for children under CN, MN, ~~((or))~~ SCHIP, or children's health coverage.

((9)) (10) Children may also be eligible for:

(a) Family medical as described in WAC 388-505-0220;

or

(b) Medical extensions as described in WAC 388-523-0100.

~~((10))~~ (11) Except for a client described in subsection (4)(c)(i) and (ii), an inmate of a public institution, as defined in WAC 388-500-0005, is not eligible for CN or MN medical coverage.

AMENDATORY SECTION (Amending WSR 02-10-018, filed 4/22/02, effective 5/23/02)

WAC 388-523-0130 Medical extension—Redetermination. (1) When the department determines the family or an individual family member is ineligible during the medical extension period, the department must determine if they are eligible for another medical program.

(2) Children are eligible for twelve month continuous eligibility beginning with the first month of the medical extension period.

(3) When a family reports a reduction of income, the family may be eligible for a family medical program instead of medical extension benefits.

~~((3))~~ (4) Postpartum and family planning extensions are described in WAC 388-462-0015.

WSR 05-23-028

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 8, 2005, 1:21 p.m., effective December 9, 2005]

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

Purpose: The department is amending WAC 388-437-0001 Disaster food stamp program, to improve clarity in describing the disaster food stamp program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-437-0001.

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

Adopted under notice filed as WSR 05-18-065 on September 6, 2005.

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: November 4, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-437-0001 Disaster food stamp program.

(1) ~~((Assistance units that suffer a loss as a result of a federally declared disaster may receive disaster food stamp benefits.~~

~~(2) Food and nutrition services (FNS) must approve use of this program when a disaster is declared.)~~ In the event of a disaster, the department works with the United States Department of Agriculture, Food and Nutrition Services (FNS) to change some requirements for the Washington Basic Food program and help ensure that people in a disaster area have access to food. This is known as the Disaster Food Stamp Program.

(2) If the President of the United States has declared a portion of the state as a federal disaster area, we ask FNS to allow use of the Disaster Food Stamp Program for the areas impacted by the disaster. Both of the following conditions must be met:

(a) People's normal access to buy food has been disrupted; and

(b) These commercial channels have since been restored with reasonable access and sufficient food supplies as determined by FNS.

(3) The department will implement any Disaster Food Stamp Program as approved by FNS.

WSR 05-23-030

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed November 8, 2005, 1:23 p.m., effective December 10, 2005]

Effective Date of Rule: December 10, 2005.

Purpose: The purpose of these rules (new chapter 388-824 WAC, Division of developmental disabilities mini-assessment process) is to govern and support the implementation and use of the mini-assessment by the Division of Developmental Disabilities. Adoption of these rules will help promote consistent application and understanding of the mini-assessment. This new chapter: (1) Describes who receives a mini-assessment and its purpose; (2) defines "level of need" groups; and (3) identifies how clients are referred to receive a full assessment. The legislature, in section 205(1), chapter 518, Laws of 2005, provided funds and guidance for implementing the mini-assessment. When effective, the permanent rules will supersede and replace emergency rules filed as WSR 05-17-088.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: Title 71A RCW, chapter 518, Laws of 2005.

Adopted under notice filed as WSR 05-09-084 on April 19, 2005, and WSR 05-16-085 (supplemental) on August 1, 2005.

Changes Other than Editing from Proposed to Adopted Version: There have been no changes, other than editing, to the supplemental proposed rule that was filed as WSR 05-16-

085 on August 1, 2005. From the original rule proposed as WSR 05-09-084, the following proposed new sections were withdrawn, WAC 388-824-0110, 388-824-0130, 388-824-0150, 388-824-0160, 388-824-0180, 388-824-0200, 388-824-0250, 388-824-0270, and 388-824-0300.

A final cost-benefit analysis is available by contacting Bob Beckman, 640 Woodland Square Loop S.E., Lacey, WA 98504-5600, phone (360) 725-2490, fax (360) 407-0995, e-mail beckmrc@dshs.wa.gov. The preliminary cost-benefit analysis is unchanged and will be final.

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 29, 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 29, Amended 0, Repealed 0.

Date Adopted: October 24, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

Chapter 388-824 WAC

DIVISION OF DEVELOPMENTAL DISABILITIES MINI-ASSESSMENT PROCESS

NEW SECTION

WAC 388-824-0001 What definitions apply to this chapter? The following definitions apply to this chapter:

"Algorithm" means a numerical formula used by the mini-assessment software application to assign a client to a level of need group.

"CARE" means the Comprehensive Assessment Reporting Evaluation as defined in Chapter 388-106 WAC.

"Client" means a person with a developmental disability as defined in Chapter 388-823 WAC. For purposes of this chapter, the term "client" may include the client's representative.

"Crisis" means a serious and imminent threat exists or will exist without immediate intervention and the client lacks the resources to address the situation. The threat may be:

- (1) To the life, health and/or safety of the client; or
- (2) To the safety of the client's family; or
- (3) To the safety of the community.

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

"DDD" means the division of developmental disabilities, a division within the aging and disability services administration (ADSA), department of social and health services (DSHS).

"Domain" means a specific area of the client's life. For mini-assessment purposes only, domains are identified in WAC 388-824-0025.

"Full assessment" means an inventory and evaluation of client needs using a department approved tool to determine service eligibility and amount of services that may be authorized.

"Full assessment referral database" means a report that contains client identification information and mini-assessment results.

"ICF/MR" means a facility certified as an intermediate care facility for the mentally retarded by Title XIX to provide services to individuals diagnosed as having mental retardation or persons with related conditions as defined in chapter 388-825 WAC.

"Information and referral" means a service directing clients to appropriate DSHS and generic community resources based on reported and/or assessed needs. This includes client/family education and problem solving related to reported and/or identified needs. This does not include authorizing a paid service.

"Mini-assessment" means a brief computerized assessment tool using a set of questions and responses scored by an algorithm. A mini-assessment identifies the relative level of need that exists in specific domains of the client's life.

"Paid services" is defined as one or more of the following:

(1) Authorization of a paid service within the last ninety days as evidenced by a social services payment system (SSPS) authorization, a county authorization for day program services, a Waiver Plan of Care approving a DDD paid service, or residence in a SOLA or ICF/MR.

(2) Authorization of family support services within the last twelve months.

(3) Documentation of DDD approval of your absence from DDD paid services for more than ninety days with available funding for your planned return to services.

"Reassessment" means any additional mini-assessment that the client receives after the initial mini-assessment.

"Respondent" means a client's parent(s) or another person who participates in the mini-assessment interview by answering questions and providing information.

"Significant change" means a reported change, for better or worse, in the client's medical condition, caregiver status, or need for support that differs from what was reported in the client's initial mini-assessment.

"SOLA" means a state operated living alternative program for adults that is operated by DDD.

NEW SECTION

WAC 388-824-0010 What is the DDD mini-assessment? (1) The mini-assessment is a brief computerized assessment tool that case managers use to identify the relative level of need that exists in specific domains of your life.

NEW SECTION

WAC 388-824-0015 How do you and/or your respondent(s) obtain information about the mini-assessment? Upon request, your case manager must provide you with a

written copy and/or information on how to obtain a copy of the mini-assessment and associated algorithm.

NEW SECTION

WAC 388-824-0020 What is the purpose of the mini-assessment? The purpose of the mini-assessment is to:

- (1) Identify major domains in which needs may exist, as identified in WAC 388-824-0010;
- (2) Identify clients with no current unmet needs;
- (3) Identify clients who are not in crisis and who will receive information and referral services alone;
- (4) Identify clients who need employment or other county services;
- (5) Determine whether a client is in crisis;
- (6) Identify clients who may be eligible for Medicaid Personal Care;
- (7) Assign clients to one of the following level of need groups for referral to the Full Assessment Referral Database:
 - (a) High level of need;
 - (b) Moderate level of need; or
 - (c) Low level of need; and
- (8) Assist supervisors and case resource managers to make decisions about whom to refer for a full assessment.

NEW SECTION

WAC 388-824-0025 What domains does the mini-assessment evaluate to identify your relative level of need? The mini-assessment evaluates information you report regarding the following specific domains:

- (1) Housing;
- (2) Caregiver/support system;
- (3) Safety;
- (4) Community protection;
- (5) Behavior;
- (6) Financial/subsistence;
- (7) Physical health;
- (8) Mental health;
- (9) Personal care assistance;
- (10) Education;
- (11) Employment;
- (12) Social/community participation;
- (13) Legal;
- (14) Communication;
- (15) Adaptive equipment; and
- (16) Transportation.

NEW SECTION

WAC 388-824-0030 Does the mini-assessment affect other DDD assessments? The mini-assessment does not replace or change other assessments that DDD uses.

NEW SECTION

WAC 388-824-0040 Who receives a mini-assessment? (1) DDD conducts a mini-assessment if you have been determined eligible to be a client of the division of developmental disabilities per WAC 388-823-0020 and meet the requirements of WAC 388-824-0050; or

(2) You are eligible to be a client of DDD per WAC 388-823-0020 and are eligible for the Medicaid Categorically Needy Program (CNP) but you have been determined ineligible for Medicaid Personal Care by a CARE assessment, or have declined Medicaid Personal Care Services.

NEW SECTION

WAC 388-824-0050 Who does not receive a mini-assessment? DDD does not conduct a mini-assessment in any of these situations:

- (1) Your child is under age of three, since your child:
 - (a) May be eligible for services through the federally funded Infant Toddler Early Intervention Program; and
 - (b) May be referred for county-funded child development services.
- (2) You are under the age of seventeen years and receiving private duty nursing services as defined by WAC 388-551-3000.
- (3) You have been authorized to receive a State Supplementary Payment, through SSPS.
- (4) You are currently living in or being discharged from a state-paid residential program or facility.
- (5) You are in crisis and have been referred directly for a full assessment by a supervisor or case resource manager.
- (6) You are receiving paid services as defined in WAC 388-824-0001.

NEW SECTION

WAC 388-824-0055 Who participates in the mini-assessment? You and your respondent(s) participate in the mini-assessment. If you are under age of eighteen or have a legal guardian, the primary respondent(s) will be your parent(s) or legal guardian.

NEW SECTION

WAC 388-824-0060 How does DDD conduct an initial mini-assessment? (1) DDD staff must complete the mini-assessment through a face-to-face interview with you.

(2) The mini-assessment may occur at any site agreed to by you, your respondent(s) and DDD.

NEW SECTION

WAC 388-824-0065 When does DDD conduct a reassessment? A reassessment may occur when:

- (1) A significant change is reported regarding your relative level of need; and
- (2) You and/or your respondent have requested assistance in supporting your reported unmet need to your case resource manager; and
- (3) You meet the criteria defined in WAC 388-824-0040 and WAC 388-824-0050; or
- (4) A supervisor and/or your case resource manager determine that a reassessment is necessary.

NEW SECTION

WAC 388-824-0070 Does DDD require you to disclose financial information? (1) If you are under the age of eighteen and live with your natural, step, or adoptive parent(s), your case resource manager must ask for information regarding:

(a) Your family's annual gross income; and
 (b) The number of dependents in your family's household.

(2) Your case resource manager must ask for this information before completing your mini-assessment.

(3) If your respondent(s) agree to disclose your family's annual gross income and the number of your family's dependents, your case resource manager must record this information in the CARE tool.

NEW SECTION

WAC 388-824-0080 Is the respondent required to provide verification of my family's annual gross income? Your respondent(s) are not required to provide verification or evidence of your family's annual gross income and/or number of family dependents.

NEW SECTION

WAC 388-824-0090 Does reporting your family's annual gross income and number of family dependents affect your eligibility for paid services? Reporting your family's annual gross income and number of family dependents does not affect your eligibility for paid services except when the legislature establishes, by law, standards for a specific service.

NEW SECTION

WAC 388-824-0100 What does DDD do if the respondent does not provide the requested family income and dependent information? If the respondent does not provide information regarding your family's annual gross income and number of family dependents, the case resource manager must:

(1) Document that the your respondent(s) have declined to provide information regarding your family's annual gross income information and/or number of family dependents.

(2) Ask your respondent(s) if they would like information regarding a referral for ICF/MR services per Title 71A RCW, chapter 388-825 WAC and chapter 388-837 WAC.

(3) Offer you and/or your respondent(s) an opportunity to complete the mini-assessment.

NEW SECTION

WAC 388-824-0120 What is the difference between a mini-assessment for adults and a mini-assessment for children? The differences between a mini-assessment for adults and children are:

(1) The requirement to request your family income information and number of family dependents per chapter 388-824-0070; and

(2) The presentation of different wordings of questions which may activate or inactivate whole questions based on your age.

NEW SECTION

WAC 388-824-0140 How does the mini-assessment use information that is scored during the mini-assessment interview? The mini-assessment uses information reported by you and/or your respondent(s) to evaluate your relative level of need using an algorithm in the software application.

NEW SECTION

WAC 388-824-0170 What occurs when you are assigned to the "high level of need" group? When you are assigned to the "high level of need" group, your case resource manager must do one or more of the following:

(1) Refer you to the Full Assessment Referral Database for a full assessment.

(2) Assist you to resolve a crisis, if indicated by the mini-assessment, before initiating a full assessment.

(3) Offer you necessary information and referral services to address a reported and/or assessed need.

(4) Provide you and your respondent(s) with information on how to contact your case resource manager should a change in your needs occur.

(5) Refer you for further case management review if the mini-assessment indicates:

(a) You have an unmet need in the community protection domain; or

(b) You may be at risk for placement in a more restrictive setting.

NEW SECTION

WAC 388-824-0190 What occurs when you are assigned to the "moderate level of need" group? When you are assigned to the "moderate level of need" group, your case resource manager must do one or more of the following:

(1) Refer you to the Full Assessment Referral Database for a full assessment.

(2) Offer you necessary information and referral services to address a reported and/or assessed need.

(3) Refer you for further case management review if the mini-assessment identifies you to be at risk for placement in a more restrictive residential setting.

(4) Provide you and your respondent(s) with information on how to contact your case resource manager should a change in your needs occur.

NEW SECTION

WAC 388-824-0210 What occurs when you are assigned to the "low level of need" group? When you are assigned to the "low level of need" group, your case resource manager must do one or more of the following:

(1) Refer you to the Full Assessment Referral Database.

(2) Offer you necessary information and referral services to address a reported and/or assessed need.

(3) Provide you and your respondent(s) with information on how to contact your case resource manager should a change in your needs occur.

NEW SECTION

WAC 388-824-0220 When will I be reassigned to another level of need group? You may be reassigned to another level of need group only if you continue to meet the criteria defined in WAC 388-824-0065 and receive a reassessment that indicates assignment to another level of need group.

NEW SECTION

WAC 388-824-0230 Does the mini-assessment result in paid services? The mini-assessment does not result in you receiving paid services except when the legislature establishes, by law, standards for specific service.

NEW SECTION

WAC 388-824-0240 How do you know the results of your mini-assessment? After the mini-assessment is performed, your case resource manager must discuss the results with you and/or your respondent(s). You and your designated respondent(s) will be notified in writing regarding:

- (1) Your assigned level of need group; and
- (2) Information on how to contact your case resource manager should a change in your needs occur.

NEW SECTION

WAC 388-824-0260 What is the full assessment referral database? The full assessment referral database is a report that assists supervisors and case resource managers to make decisions about whom to refer for a full assessment. It contains the following information:

- (1) Your name, date of birth, and phone number.
- (2) The date your mini-assessment was performed.
- (3) Information about whether the mini-assessment indicated that you may be in crisis.
- (4) Information regarding your relative level of need to include:
 - (a) Your assigned level of need group; and
 - (b) Your mini-assessment score.

NEW SECTION

WAC 388-824-0280 What information does DDD use in deciding whom to refer for a full assessment? DDD refers you from the full assessment referral database for a full assessment on the basis of:

- (1) Your mini-assessment score;
- (2) Your identified level of unmet need;
- (3) DDD's capacity for completing full assessments; and
- (4) Available funding to provide an approved service to meet the identified level of unmet need.

NEW SECTION

WAC 388-824-0290 When does DDD remove my name from the full assessment referral database? DDD removes your name from the full assessment referral database after:

- (1) You have received a full assessment;
- (2) DDD determines that you no longer meet the criteria for a mini-assessment per WAC 388-824-0050; or
- (3) DDD determines that you are receiving a paid service and/or no longer eligible to be a client of the division of developmental disabilities per chapter 388-823 WAC.

NEW SECTION

WAC 388-824-0310 When DDD adjusts the mini-assessment algorithm, when does the adjustment become effective? When DDD adjusts the mini-assessment algorithm, the adjustment becomes effective at your initial or next mini-assessment or reassessment following the date of the algorithm adjustment.

NEW SECTION

WAC 388-824-0320 Are there appeal rights to the mini-assessment? (1) You and/or your designated representative(s) have the right to a hearing when:

- (a) You disagree with the information entered into the mini-assessment; or
 - (b) DDD denies you and/or your designated representative's request to have a reassessment performed.
- (2) You do not have the right to appeal the mini-assessment algorithm.

NEW SECTION

WAC 388-824-0330 If you request a hearing to review the results of your mini-assessment, which mini-assessment does the administrative law judge review in the hearing? If you request a hearing to review the results of your mini-assessment, the administrative law judge must review your most recent mini-assessment.

WSR 05-23-031

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed November 8, 2005, 1:24 p.m., effective December 9, 2005]

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

Purpose: The department is amending this rule to clarify and strengthen the process and standards used to determine medical necessity, which in turn will:

- Improve the quality of care provided to department clients through state purchased healthcare; and
- Maximize program resources through prudent, cost-effective purchasing practices.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-501-0165.

Statutory Authority for Adoption: RCW 74.04.050,
74.08.090.

Adopted under notice filed as WSR 05-17-160 on
August 22, 2005.

Changes Other than Editing from Proposed to Adopted
Version: (1) This section applies to fee-for-service (FFS)
requests for medical or dental services and medical equip-
ment that:

(a) Are identified as covered services or EPSDT ser-
vices; and

(b) Require prior authorization by the department.

(3) The department authorizes, on a case-by-case basis,
requests described in subsection (1) when the department
determines the service or equipment is medically necessary
as defined in WAC 388-500-0005. The process the depart-
ment uses to assess medical necessity is based on:

(a) The evaluation of submitted and obtainable medical,
dental, or mental health evidence as described in subsections
(4) and (5) of this section; and

(b) The application of the evidence-based rating process
described in subsections (6) ~~and (7)~~ of this section.

(6) The department uses the following processes to
determine whether a requested service described in subsec-
tion (1) is medically necessary:

(a) **Hierarchy of evidence - how defined.** The depart-
ment uses a hierarchy of evidence to determine the weight
given to available data. The weight of medical evidence
depends on objective indicators of its validity and reliability
including the nature and source of the evidence, the empirical
characteristics of the studies or trials upon which the evi-
dence is based, and the consistency of the outcome with com-
parable studies. The hierarchy (in descending order with
Type I given the greatest weight) is:

(i) Type I: Meta-analysis done with multiple, well-
designed controlled studies;

(ii) Type II: One or more well-designed experimental
studies;

(iii) Type III: Well-designed, quasi-experimental stud-
ies such as non-randomized controlled, single group pre-post,
cohort, time series, or matched case-controlled studies;

(iv) Type IV: Well-designed, non-experimental studies,
such as comparative and correlation descriptive, and case
studies (uncontrolled); and

(v) Type V: Credible evidence submitted by the pro-
vider.

(b) ~~Evaluation of effectiveness and safety~~ **Hierarchy
of evidence - how classified.** Based on the quality of avail-
able evidence, the department determines if the requested ser-
vice is effective and safe for the client by classifying it as an
"A," "B," "C," or "D" level of evidence:

(i) "A" level evidence: Shows the requested service or
equipment is a proven benefit to the client's condition by
strong scientific literature and well-designed clinical trials
such as a Type I evidence or multiple Type II evidence or
combinations of Type II, III, or IV evidence with consistent
results (An "A" rating cannot be based on Type III or Type IV
evidence alone). ~~An "A" rating cannot be based on Type III
or Type IV evidence alone.~~

(ii) "B" level evidence: Shows the requested service or
equipment has some proven benefit supported by:

(A) Multiple Type II or III evidence or combinations of
Type II, III, or IV evidence with generally consistent findings
of effectiveness and safety (A "B" rating cannot be based on
Type IV evidence alone) ~~A "B" rating cannot be based on
Type IV evidence alone;~~ or

(B) Singular Type II, III, or IV evidence in combination
with department-recognized:

(I) ~~clinical~~ Clinical guidelines; or

(II) ~~treatment~~ Treatment pathways; or

(III) Other guidelines that use the hierarchy of evidence
in establishing the rationale for existing standards, ~~as recog-
nized by the department.~~

(iii) "C" level evidence: Shows only weak and incon-
clusive evidence regarding safety and/or efficacy such as:

(A) Type II, III, or IV evidence with inconsistent find-
ings; or

(B) Only Type V evidence is available.

(iv) "D" level evidence: Is not supported by any evi-
dence regarding its safety and efficacy, for example that
which is considered investigational or experimental.

~~(7) (c) Hierarchy of evidence - how applied.~~ The After
classifying the available evidence, the department:

(a) ~~(i)~~ Approves "A" and "B" rated requests if the service
or equipment:

~~(i)~~ (A) Does not place the client at a greater risk of mor-
tality or morbidity than an equally effective alternative treat-
ment; and

~~(ii)~~ (B) Is not more costly than an equally effective alter-
native treatment.

~~(b)~~ (ii) Approves a "C" rated request only if the provider
~~can demonstrate that shows the evidence supporting the "C"
rating fails to adequately address requested service is the
optimal intervention for meeting the client's specific condi-
tion or treatment needs, and the requested service.~~

~~(i)~~ (A) Does not place the client at a greater risk of mor-
tality or morbidity than an equally effective alternative treat-
ment; and

~~(ii)~~ (B) Is less costly to the department than an equally
effective alternative treatment; and

~~(iii)~~ (C) Is the next reasonable step for the client in a
well-documented tried-and-failed attempt at evidence-based
care.

~~(e)~~ (iii) Denies "D" rated requests unless:

~~(i)~~ (A) The requested service or equipment has a human-
itarian device exemption from the Food and Drug Adminis-
tration (FDA); or

~~(ii)~~ (B) There is a local Institutional Review Board (IRB)
protocol addressing issues of efficacy and safety of the
requested service that satisfies both the department and the
requesting provider.

~~(8) (7) Within fifteen days of receiving the request and
supporting medical evidence from the client's provider, the
department reviews all evidence submitted and:~~

(a) Approves the request;

(b) Denies the request if ~~the evidence submitted is suffi-
cient to reasonably determine that the requested service is not
medically necessary;~~ or

(c) Requests the provider submit additional justifying information from the prescribing physician, dentist, specialty therapist, and/or service vendor if the documentation submitted is insufficient to reasonably determine medical necessity. The department sends a copy of the request to the client at the same time.

(i) ~~If the department does not receive the information within thirty days of the original request date, the department denies the original request within the next five business days on the basis of insufficient justification of medical necessity (see subsection (8) for further details) The provider must submit the additional information within thirty days of the department's request, or.~~

(ii) ~~If the The department receives the information within thirty days of the original request date, the department makes a final determination on the request within five business days approves or denies the request within five business days of the receipt of that the additional information.~~

(iii) ~~If the provider fails to provide the additional information, the department will deny the requested service.~~

A final cost-benefit analysis is available by contacting Kevin Sullivan, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344, fax (360) 586-9727, e-mail sulkim@dshs.wa.gov. The preliminary cost-benefit analysis is unchanged and will be final.

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: November 4, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-03-035, filed 1/12/00, effective 2/12/00)

WAC 388-501-0165 ((~~Determination process for coverage of medical equipment and medical or dental services~~) Medical and dental coverage - fee-for-service (FFS) prior authorization -determination process for payment. ((This section applies to fee for service (FFS) requests for medical equipment and medical or dental services that require prior authorization.

~~(1) MAA evaluates requests on an individual basis, and bases the decision to approve or deny on submitted and obtainable evidence.~~

~~(2) MAA denies a request when MAA determines the service or equipment is not:~~

~~(a) Medically/dentally necessary;~~

~~(b) Covered; or~~

~~(c) Generally considered as acceptable treatment by the medical/dental profession based on the medical/dental standard of practice, or is investigative or experimental in nature. However, MAA may approve such a request if the provider submits sufficient objective clinical evidence demonstrating that a client's particular circumstances make the request medically/dentally necessary.~~

~~(3) Requests for covered services and equipment are approved when MAA determines that the service or equipment is medically necessary as defined in WAC 388-500-0005 or dentally necessary as defined in WAC 388-535-1050.~~

~~(4) The examining physician/dentist responsible for the client's diagnosis and/or treatment must submit specific evidence sufficient to determine if the covered service or equipment is medically/dentally necessary. Such evidence may include, but is not limited to:~~

~~(a) A client-specific physiological description of the disease, injury, impairment, or other ailment;~~

~~(b) Pertinent laboratory findings;~~

~~(c) X-ray and/or imaging reports;~~

~~(d) Individual patient records pertinent to the case or request;~~

~~(e) Photographs and/or videos when requested by MAA;~~

~~(f) Dental X-rays; and~~

~~(g) Objective medical/dental information, including but not limited to medically/dentally acceptable clinical findings and diagnoses resulting from physical or mental examinations.~~

~~(5) MAA gives substantial weight to objective medical/dental information and resulting conclusions from an examining physician/dentist responsible for the client's diagnosis and/or treatment.~~

~~(a) MAA accepts the examining physician's/dentist's uncontradicted and adequately substantiated conclusion with respect to medical/dental necessity, unless MAA presents specific detailed reasons for rejecting that conclusion. MAA's reasons will be consistent with sound medical/dental practice and supported by objective medical/dental information in the client's file.~~

~~(b) If two or more examining physicians/dentists provide conflicting medical/dental information or conclusions about medical/dental necessity for the request under review, MAA will use all information submitted to reach a decision. If MAA concludes the request is not medically/dentally necessary, MAA will enumerate specific reasons, supported by objective medical/dental information in the client's file, for that decision.~~

~~(6) Within fifteen calendar days of receiving a request:~~

~~(a) MAA approves or denies the request; or~~

~~(b) Requests additional justifying information from the prescribing physician, dentist, specialty therapist, and/or service vendor if the documentation submitted is insufficient to reasonably determine medical or dental necessity. Examples of information that MAA may request are shown in subsection (4) of this section. MAA sends a copy of the request to the client at the same time.~~

(i) If MAA does not receive the information within thirty days of the date requested, MAA denies the original request within the next five working days on the basis of insufficient justification of medical/dental necessity;

(ii) If MAA receives the information within thirty days, MAA makes a final determination on the request within five working days of the receipt of that additional information.

(7) When MAA denies all or part of a request for a covered service(s) or equipment, MAA sends the client and the provider written notice of the denial within five working days of the decision. The notice includes:

(a) The WAC reference(s) used as a basis for the decision;

(b) A summary statement of the specific facts MAA relied upon for the decision;

(c) An explanation of the reasons for the denial, including the reasons why the specific facts relied upon did not meet the requirements for approval;

(d) When required by subsection (5) of this section, a specific statement of the reasons and supporting facts for rejecting any medical/dental information or conclusions of an examining physician/dentist;

(e) Notice of the client's right to a fair hearing and filing deadlines;

(f) Instructions about how to request the hearing;

(g) A statement that the client may be represented at the hearing by legal counsel or other representative; and

(h) Upon the client's request, the name and address of the nearest legal services office.

(8) When MAA receives a request for a noncovered service(s) or equipment, MAA may:

(a) Approve the request as an exception to rule according to WAC 388-501-0160; or

(b) Deny the request as a noncovered service, and send the client and the provider written notice of the denial within five working days of the decision. The notice includes:

(i) The WAC reference(s) used as a basis for the decision;

(ii) The reason for the denial;

(iii) Notice of the client's right to a fair hearing and filing deadlines;

(iv) Instructions about how to request the hearing;

(v) A statement that the client may be represented at the hearing by legal counsel or other representative; and

(vi) Upon the client's request, the name and address of the nearest legal services office.

(9) If a fair hearing is requested, MAA or the client may request an independent medical/dental assessment. MAA will pay for the independent assessment if MAA agrees that it is necessary, or a fair hearing judge determines that the assessment is necessary. (1) This section applies to fee-for-service (FFS) requests for medical or dental services and medical equipment that:

(a) Are identified as covered services or EPSDT services; and

(b) Require prior authorization by the department.

(2) The following definitions and those found in WAC 388-500-0005 apply to this section:

"Controlled studies" - Studies in which defined groups are compared with each other to reduce bias.

"Credible evidence" - Type I-IV evidence or evidence-based information from any of the following sources:

• Clinical guidelines

• Government sources

• Independent Medical Evaluation (IME)

• Independent Review Organization (IRO)

• Independent technology assessment organizations

• Medical and hospital associations

• Policies of other health plans

• Regulating agencies (e.g., Federal Drug Administration or Department of Health)

• Treating provider

• Treatment pathways

"Evidence-based" - The ordered and explicit use of the best evidence available (see "hierarchy of evidence" in subsection (6)(a) of this section) when making health care decisions.

"Health outcome" - Changes in health status (mortality and morbidity) which result from the provision of health care services.

"Institutional Review Board (IRB)" - A board or committee responsible for reviewing research protocols and determining whether:

(1) The rights and welfare of human subjects are adequately protected;

(2) The risks to individuals are minimized and are not unreasonable;

(3) The risks to individuals are outweighed by the potential benefit to them or by the knowledge to be gained; and

(4) The proposed study design and methods are adequate and appropriate in the light of stated study objectives.

"Independent review organization (IRO)" - A panel of medical and benefit experts intended to provide unbiased, independent, clinical, evidence-based reviews of adverse decisions.

"Independent medical evaluation (IME)" - An objective medical examination of the client to establish the medical facts.

"Provider" - The individual who is responsible for diagnosing, prescribing, and providing medical, dental, or mental health services to department clients.

(3) The department authorizes, on a case-by-case basis, requests described in subsection (1) when the department determines the service or equipment is medically necessary as defined in WAC 388-500-0005. The process the department uses to assess medical necessity is based on:

(a) The evaluation of submitted and obtainable medical, dental, or mental health evidence as described in subsections (4) and (5) of this section; and

(b) The application of the evidence-based rating process described in subsection (6) of this section.

(4) The department reviews available evidence relevant to a medical, dental, or mental health service or equipment to:

(a) Determine its efficacy, effectiveness, and safety;

(b) Determine its impact on health outcomes;

(c) Identify indications for use;

(d) Evaluate pertinent client information;

(e) Compare to alternative technologies; and

(f) Identify sources of credible evidence that use and report evidence-based information.

(5) The department considers and evaluates all available clinical information and credible evidence relevant to the client's condition. At the time of request, the provider responsible for the client's diagnosis and/or treatment must submit credible evidence specifically related to the client's condition, including but not limited to:

(a) A client-specific physiological description of the disease, injury, impairment, or other ailment;

(b) Pertinent laboratory findings;

(c) Pertinent x-ray and/or imaging reports;

(d) Individual patient records pertinent to the case or request;

(e) Photographs and/or videos when requested by the department; and

(f) Objective medical/dental/mental health information such as medically/dentally acceptable clinical findings and diagnoses resulting from physical or mental examinations.

(6) The department uses the following processes to determine whether a requested service described in subsection (1) is medically necessary:

(a) **Hierarchy of evidence - how defined.** The department uses a hierarchy of evidence to determine the weight given to available data. The weight of medical evidence depends on objective indicators of its validity and reliability including the nature and source of the evidence, the empirical characteristics of the studies or trials upon which the evidence is based, and the consistency of the outcome with comparable studies. The hierarchy (in descending order with Type I given the greatest weight) is:

(i) Type I: Meta-analysis done with multiple, well-designed controlled studies;

(ii) Type II: One or more well-designed experimental studies;

(iii) Type III: Well-designed, quasi-experimental studies such as non-randomized controlled, single group pre-post, cohort, time series, or matched case-controlled studies;

(iv) Type IV: Well-designed, non-experimental studies, such as comparative and correlation descriptive, and case studies (uncontrolled); and

(v) Type V: Credible evidence submitted by the provider.

(b) **Hierarchy of evidence - how classified.** Based on the quality of available evidence, the department determines if the requested service is effective and safe for the client by classifying it as an "A," "B," "C," or "D" level of evidence:

(i) **"A" level evidence:** Shows the requested service or equipment is a proven benefit to the client's condition by strong scientific literature and well-designed clinical trials such as Type I evidence or multiple Type II evidence or combinations of Type II, III or IV evidence with consistent results (An "A" rating cannot be based on Type III or Type IV evidence alone).

(ii) **"B" level evidence:** Shows the requested service or equipment has some proven benefit supported by:

(A) Multiple Type II or III evidence or combinations of Type II, III or IV evidence with generally consistent findings of effectiveness and safety (A "B" rating cannot be based on Type IV evidence alone); or

(B) Singular Type II, III, or IV evidence in combination with department-recognized:

(I) Clinical guidelines; or

(II) Treatment pathways; or

(III) Other guidelines that use the hierarchy of evidence in establishing the rationale for existing standards.

(iii) **"C" level evidence:** Shows only weak and inconclusive evidence regarding safety and/or efficacy such as:

(A) Type II, III, or IV evidence with inconsistent findings; or

(B) Only Type V evidence is available.

(iv) **"D" level evidence:** Is not supported by any evidence regarding its safety and efficacy, for example that which is considered investigational or experimental.

(c) **Hierarchy of evidence - how applied.** After classifying the available evidence, the department:

(i) Approves "A" and "B" rated requests if the service or equipment:

(A) Does not place the client at a greater risk of mortality or morbidity than an equally effective alternative treatment; and

(B) Is not more costly than an equally effective alternative treatment.

(ii) Approves a "C" rated request only if the provider shows the requested service is the optimal intervention for meeting the client's specific condition or treatment needs, and:

(A) Does not place the client at a greater risk of mortality or morbidity than an equally effective alternative treatment; and

(B) Is less costly to the department than an equally effective alternative treatment; and

(C) Is the next reasonable step for the client in a well-documented tried-and-failed attempt at evidence-based care.

(iii) Denies "D" rated requests unless:

(A) The requested service or equipment has a humanitarian device exemption from the Food and Drug Administration (FDA); or

(B) There is a local Institutional Review Board (IRB) protocol addressing issues of efficacy and safety of the requested service that satisfies both the department and the requesting provider.

(7) Within fifteen days of receiving the request from the client's provider, the department reviews all evidence submitted and:

(a) Approves the request;

(b) Denies the request if the requested service is not medically necessary; or

(c) Requests the provider submit additional justifying information. The department sends a copy of the request to the client at the same time.

(i) The provider must submit the additional information within thirty days of the department's request.

(ii) The department approves or denies the request within five business days of the receipt of the additional information.

(iii) If the provider fails to provide the additional information, the department will deny the requested service.

(8) When the department denies all or part of a request for a covered service(s) or equipment, the department sends the client and the provider written notice, within ten business days of the date the information is received, that:

(a) Includes a statement of the action the department intends to take;

(b) Includes the specific factual basis for the intended action;

(c) Includes reference to the specific WAC provision upon which the denial is based;

(d) Is in sufficient detail to enable the recipient to:

(i) Learn why the department's action was taken; and

(ii) Prepare an appropriate response.

(e) Is in sufficient detail to determine what additional or different information might be provided to challenge the department's determination;

(f) Includes the client's administrative hearing rights;

(g) Includes an explanation of the circumstances under which the denied service is continued or reinstated if a hearing is requested; and

(h) Includes examples(s) of "lesser cost alternatives" that permit the affected party to prepare an appropriate response.

(9) If an administrative hearing is requested, the department or the client may request an Independent Review Organization (IRO) or Independent Medical Examination (IME) to provide an opinion regarding whether the requested service or equipment is medically necessary. The department will pay for the independent assessment if the department agrees that it is necessary, or an administrative law judge orders the assessment.

WSR 05-23-033

PERMANENT RULES

DEPARTMENT OF

NATURAL RESOURCES

[Filed November 8, 2005, 3:29 p.m., effective December 9, 2005]

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

Purpose: WAC 332-30-123 describes how DNR selects upland parcels to calculate rents for water-dependent leases. Over the years, some people have interpreted the same rule in different ways, some interpretations have been settled by court cases, and some new or unusual situations have arisen not directly addressed by the rule. This change will bring the rule up-to-date, and make it easier to understand and follow in these situations, without changing the basic way rents are calculated.

Citation of Existing Rules Affected by this Order: Amending WAC 332-30-123.

Statutory Authority for Adoption: RCW 79.90.540.

Adopted under notice filed as WSR 05-16-112 on August 3, 2005.

Changes Other than Editing from Proposed to Adopted Version: In subsection (2)(a), instead of deleting the waterfront criterion, there is now a narrow exception to the waterfront criterion. The intent remains the same, namely to allow the use of an upland parcel behind the waterfront parcel in limited circumstances. Subsection (3)(g) specifies that assessed value based on contamination on an upland parcel is considered inconsistent. This was clarified to make clear that it is inconsistent only when that upland contamination impairs the use of the lease of the aquatic lands.

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: November 3, 2005.

Doug Sutherland

Commissioner of Public Lands

AMENDATORY SECTION (Amending Resolution No. 470, filed 11/9/84)

WAC 332-30-123 Aquatic land use rentals for water-dependent uses. All requirements in this section shall apply to the department and to port districts managing aquatic lands under a management agreement (WAC 332-30-114). The annual rental for water-dependent use leases of state-owned aquatic land shall be: The per unit assessed value of the upland tax parcel, exclusive of improvements, multiplied by the units of lease area multiplied by thirty percent multiplied by the real rate of return. Expressed as a formula, it is: $UV \times LA \times .30 \times r = AR$. Each of the letter variables in this formula have specific criteria for their use as described below. This step by step presentation covers the typical situations within each section first, followed by alternatives for more unique situations.

(1) Overall considerations.

(a) Criteria for use of formula. The formula:

(i) Shall be applied to all leases (~~having structural uses that require a physical interface with upland property when a water-dependent use occurs on such uplands (in conjunction with the water-dependent use on the aquatic lands))~~) for water-dependent uses, except as otherwise provided by statute;

(ii) (~~Shall be used for remote moorage leases by selecting an upland parcel as detailed in subsection (2) of this section;~~

~~(iii))~~ Shall not be used for areas of filled state-owned aquatic lands having upland characteristics where the department can charge rent for such fills (see WAC 332-30-125), renewable and nonrenewable resource uses, or areas meeting criteria for public use (see WAC 332-30-130); and

~~((iv))~~ (iii) Shall cease being used for leases intended for water-dependent uses when the lease area is not actively developed for such purposes as specified in the lease contract. Rental in such situations shall be determined under the appropriate section of this chapter.

(b) Criteria for applicability to leases. The formula shall be used to calculate rentals for:

(i) All new leases and all pending applications to lease or re-lease as of October 1, 1984;

(ii) All existing leases, where the lease allows calculation of total rent by the appropriate department methods in effect at the time of rental adjustment. Leases in this category previously affected by legislated rental increase limits, shall have the formula applied on the first lease anniversary date after September 30, 1984. Other conditions of these leases not related to rent shall continue until termination or amendment as specified by the lease contract. Leases in this category not previously affected by legislated rental increase limits and scheduled for a rent adjustment after October 1, 1985, shall have the option of retaining the current rent or electing to pay the formula rent under the same conditions as specified in (iii) of this subsection.

(iii) Leases containing specific rent adjustment procedures or schedules shall have the rent determined by the formula when requested by the lessee. Holders of such leases shall be notified prior to their lease anniversary date of both the lease contract rent and formula rent. A selection of the formula rent by the lessee shall require an amendment to the lease which shall include all applicable aquatic land laws and implementing regulations.

(2) Physical criteria of upland tax parcels.

(a) ~~((Leases used in conjunction with and supportive of activities on the uplands.))~~ The upland tax parcel used shall be ~~((waterfront))~~ used in conjunction with the leased area and have some portion with upland characteristics. The upland tax parcel shall be waterfront, except that if the waterfront parcel's assessed value is inconsistent with the purposes of the lease as described in subsection (3) of this section, and there is a landward parcel also used in conjunction with the leased area that meets all the criteria in this subsection (2) and is consistent with the purposes of the lease as described in subsection (3) of this section, then such landward parcel shall be used. If no upland tax parcel meets these criteria, then an alternative shall be selected under the criteria of subsection (4) of this section. For the purposes of this section, "upland characteristics" means fill or other improvements or alterations that allow for development of the property as if it were uplands and that have been valued by the county assessor as uplands.

(b) ~~((Remote moorage leases. The upland tax parcel used shall be waterfront, have some portion with upland characteristics; and))~~ For leases without a physical connection with upland property (for example, open water moorage and anchorage areas, or mitigation or conservation sites not abutting the shoreline), the upland tax parcel used shall:

(i) If the ~~((remote moorage))~~ lease is associated with a local upland facility, be an appropriate parcel at the facility; or

(ii) If the ~~((remote moorage is similar in nature of use to moorages in the area))~~ lease is of the same use class within the water-dependent category (as listed in subsection (4) of this section) as at least one other lease within the county that is associated with a local upland facility, be an appropriate parcel at the nearest such facility; or

(iii) If ~~((the remote moorage is not associated with a))~~ there is no such local upland facility, be ~~((the parcel closest in~~

~~distance to the moorage area))~~ an alternate parcel selected under the criteria of subsection (4) of this section.

(c) Priority of selection. If more than one upland tax parcel meets the physical criteria, the priority of selection shall be:

(i) The parcel that is structurally connected to the lease area;

(ii) The parcel that abuts the lease area;

(iii) The parcel closest in distance to the lease area.

If more than one upland tax parcel remains after this selection priority, then each upland tax parcel will be used for its portion of the lease area. If there is mutual agreement with the lessee, a single upland tax parcel may be used for the entire lease area. When the unit value of the upland tax parcels are equal, only one upland tax parcel shall be used for the lease area.

(d) The unit value of the upland tax parcel shall be expressed in terms of dollars per square foot or dollars per acre, by dividing the assessed value of the upland tax parcel by the number of square feet or acres in the upland tax parcel. This procedure shall be used in all cases even if the value attributable to the upland tax parcel was assessed using some other unit of value, e.g., front footage, or lot value. Only the "land value" category of the assessment record shall be used; not any assessment record category related to improvements.

(3) **Consistent assessment.** In addition to the criteria in subsection (2) of this section, the upland tax parcel's assessed value must be consistent with the purposes of the lease ~~((and method of rental establishment))~~. On this basis, the following situations are examples, but are not an exclusive list, of what the department will ~~((be considered))~~ consider inconsistent and shall either require adjustment as specified, or selection of an alternative upland tax parcel under subsection (4) of this section:

(a) The upland tax parcel is not assessed. (See chapter 84.36 RCW Exemptions);

(b) Official date of assessment is more than four years old. (See RCW 84.41.030);

(c) The "assessment" results from a special tax classification or other adjustment by the county assessor not reflecting fair market value as developable upland property. Examples include classifications under: State-regulated utilities (chapter 84.12 RCW), Reforestation lands (chapter 84.28 RCW), Timber and forest lands (chapter 84.33 RCW), and Open space (chapter 84.34 RCW). This inconsistency may be corrected by substituting the ~~((full))~~ fair market value for the parcel if such value is part of the assessment records;

(d) If the assessed valuation of the upland tax parcel to be used is under appeal as a matter of record before any county or state agency, the valuation on the assessor's records shall be used, however, any changes in valuation resulting from such appeal will result in an equitable adjustment of future rental;

(e) The majority of the upland tax parcel area is not used ~~((for))~~ in conjunction with a water-dependent ~~((purpose))~~ use. This inconsistency may be corrected by using the value and area of the portion of the upland tax parcel that is used ~~((for))~~ in conjunction with water-dependent ~~((purposes))~~ use if this portion can be segregated from the assessment records; and

(f) The size of the upland tax parcel in acres or square feet is not known or its small size results in a nominal valuation, e.g., unbuildable lot; and

(g) The assessed value reflects the presence of contamination on the uplands, when the contamination on the uplands does not impair the use of the leasehold. This inconsistency may be corrected by substituting the full value for the upland parcel as if there were no contamination, if such value is part of the assessment records.

(4) **Selection of the nearest comparable upland tax parcel.** When the upland tax parcel does not meet the physical criteria or has an inconsistent assessment that can't be corrected from the assessment records, an alternative upland tax parcel shall be selected which meets the criteria. The nearest upland tax parcel shall be determined by measurement along the shoreline from the inconsistent upland tax parcel.

(a) The alternative upland tax parcel shall be located by order of selection priority:

- (i) Within the same city as the lease area, and if not applicable or found;
- (ii) Within the same county and water body as the lease area, and if not found;
- (iii) Within the same county on similar bodies of water, and if not found;
- (iv) Within the state.

(b) Within each locational priority of (a) of this subsection, the priority for a comparable upland tax parcel shall be:

(i) The same use class within the water-dependent category as the lease area use. For the purposes of this section, some examples of use classes include:

(A) Marinas and recreational moorage, including recreational boat launches and local upland facilities for open water moorage;

(B) Industrial and commercial shipping terminals and moorage;

(C) Conservation and natural resource protection areas;

(D) Mitigation sites; and

(E) For water-oriented floating homes, the same use class means any floating home;

(ii) Any water-dependent use within the same upland zoning;

(iii) Any water-dependent use; and

(iv) Any water-oriented use.

(5) **Aquatic land lease area.** The area under lease shall be expressed in square feet or acres.

(a) Where more than one use class separately exist on a lease area, the formula shall only be applied to the water-dependent use area. Other use areas of the lease shall be treated according to the regulations for the specific use.

(b) If a water-dependent and a nonwater-dependent use exist on the same portion of the lease, the rent for such portion shall be negotiated taking into account the proportion of the improvements each use occupies.

(6) **Real rate of return.**

(a) Until July 1, 1989, the real rate of return to be used in the formula shall be five percent.

(b) On July 1, 1989, and on each July 1 thereafter the department shall calculate the real rate of return for that fiscal year under the following limitations:

(i) It shall not change by more than one percentage point from the rate in effect for the previous fiscal year; and

(ii) It shall not be greater than seven percent nor less than three percent.

(7) **Annual inflation adjustment of rent.** The department shall use the inflation rate on a fiscal year basis e.g., the inflation rate for calendar year 1984 shall be used during the period July 1, 1985 through June 30, 1986. The rate will be published in a newspaper of record. Adjustment to the annual rent of a lease shall occur on the anniversary date of the lease except when the rent is redetermined under subsection (9) of this section. The inflation adjustment each year is the inflation rate times the previous year's rent except in cases of stairstepping.

(8) **Stairstepping rental changes.**

(a) Initial increases for leases in effect on October 1, 1984. If the application of the formula results in an increase of more than one hundred dollars and more than thirty-three percent, stairstepping to the formula rent shall occur over the first three years in amounts equal to thirty-three percent of the difference between each year's inflation adjusted formula rent and the previous rent.

Example

Previous rent = \$100.00 Formula rent = \$403.00 Inflation = 5%/yr.

Yr.	Formula Rent	Previous Rent	Difference	33%	Stairstep Rent
1	\$403.00	\$100.00	\$303.00	\$100.00	\$200.00
2	423.15	100.00	323.15	106.64	306.64
3	444.31	100.00	344.31	113.62	420.26
4	466.52	-	-	-	466.52

(b) Initial decreases for leases in effect on October 1, 1984. If the application of the formula results in a decrease of more than thirty-three percent, stairstepping to the formula rent shall occur over the first three years in amounts equal to thirty-three percent of the difference between the previous rent and each year's inflation adjusted formula rent.

Example

Previous rent = \$403.00 Formula rent = \$100.00 Inflation = 5%/yr.

Yr.	Previous Rent	Formula Rent	Difference	33%	Stairstep Rent
1	\$403.00	\$100.00	\$303.00	\$100.00	\$303.00
2	403.00	105.00	298.00	98.34	204.66
3	403.00	110.25	292.75	96.61	108.05
4	-	115.76	-	-	115.76

(c) If a lease in effect on October 1, 1984, contains more than one water-dependent or water-oriented use and the rental calculations for each such use (e.g., log booming and log storage) result in different rentals per unit of lease area, the total of the rents for those portions of the lease area shall be used to determine if the stairstepping provisions of (a) or (b) of this subsection apply to the lease.

(d) If a lease in effect on October 1, 1984, contains a nonwater-dependent use in addition to a water-dependent or oriented use, the stairstepping provisions of (a) or (b) of this subsection:

(i) Shall apply to the water-dependent use area if it exists separately (see subsection (5)(a) of this section);

(ii) Shall not apply to any portion of the lease area jointly occupied by a water-dependent and nonwater-dependent use (see subsection (5)(b) of this section).

(e) Subsequent increases. After completion of any initial stairstepping under (a) and (b) of this subsection due to the first application of the formula, the rent for any lease or portion thereof calculated by the formula shall not increase by more than fifty percent per unit area from the previous year's per unit area rent.

(f) All initial stairstepping of rentals shall only occur during the term of existing leases.

(9) The annual rental shall be redetermined by the formula every four years or as provided by the existing lease language. If an existing lease calls for redetermination of rental during an initial stairstepping period, it shall be determined on the scheduled date and applied (with inflation adjustments) at the end of the initial stairstep period.

WSR 05-23-040

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed November 9, 2005, 1:58 p.m., effective December 10, 2005]

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

Purpose: The purpose of the amendments to this rule is to eliminate the requirement that all teachers have to pass all sections of the pedagogy assessment in order to be certified. Colleges and universities may assess competencies in other ways as well.

Citation of Existing Rules Affected by this Order: Amending WAC 180-78A-264(10).

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 05-19-093 on September 20, 2005.

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 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: October 28, 2005.

Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 04-21-038, filed 10/15/04, effective 11/15/04)

WAC 180-78A-264 Approval standard—Program design. Building on the mission to prepare educators who demonstrate a positive impact on student learning, the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program design standard of WAC 180-78A-220(4):

(1) The conceptual framework establishes the shared vision for the unit's efforts in preparing educators to work effectively in P-12 schools. It provides the basis for coherence among curriculum, instruction, field experiences, clinical practice, assessment, and evaluation. The conceptual framework is based on current research and best practice, is cohesive and integrated, supports the state's student learning goals and for teacher preparation programs, and reflects the essential academic learning requirements. The conceptual framework reflects the unit's commitment to preparing candidates to support learning for all students and the unit's commitment to preparing candidates who are able to use educational technology to help all students learn.

(2) Candidates who demonstrate potential for acquiring the content and pedagogical knowledge and skills for success as educators in schools are recruited, admitted, and retained (see WAC 180-78A-200 Candidate admission policies). These candidates include members from under represented groups.

(3) Programs shall assure that candidates are provided with opportunities to learn the pedagogical and professional knowledge and skills required for the particular certificate, and for teacher preparation programs, the competencies for endorsement areas.

(4) A set of learner expectations for program completion are identified and published.

(5)(a) The unit and its school partners design, implement, and evaluate field experiences and clinical practices so that candidates develop and demonstrate the knowledge and skills necessary to help all students learn. Provided, That candidates for an administrator certificate shall complete an internship pursuant to WAC 180-78A-325, candidates for a school psychologist certificate shall complete an internship pursuant to WAC 180-78A-317, and candidates for a school counselor certificate shall complete an internship pursuant to WAC 180-78A-315, and candidates for a school social worker certificate shall complete an internship pursuant to WAC 180-78A-319.

(b) Field experiences are integrated throughout the preparation program and occur in settings with students representing diverse populations.

(c) Clinical practice is sufficiently extensive and intensive for candidates to demonstrate competence in the professional roles for which they are preparing.

(6) The preparing institution shall assure that candidates are provided with appropriate course work and experiences in teaching methods for each endorsement area. The methods should include:

(a) Instructional strategies.

(b) Curriculum frameworks (essential academic learning requirements).

(c) Assessment strategies, including performance-based measurements of student work.

(d) Unit/lesson planning.

(7) Entry and exit criteria exist for candidates in clinical practice.

(8) Programs reflect ongoing collaboration with P-12 schools.

(9) Candidates for a teacher certificate shall hold/obtain a baccalaureate degree from a regionally accredited college or university pursuant to WAC 180-79A-030(5).

(10)((~~a~~)) Beginning fall 2003, approved programs shall administer the pedagogy assessment adopted by the state board of education and published by the superintendent of public instruction to all candidates in a residency certificate program.

~~((b) At such time that the state board of education determines the pedagogy assessment has sufficient credibility evidence (i.e., interrater reliability and validity), successful performance on the pedagogy assessment by the candidate shall be required in order for the institution to verify completion of the state board approved residency teacher preparation program.)~~ Candidates must take the pedagogy assessment as a condition of residency program completion. However, passage is not required for program completion as long as the program can provide other evidence, separately or in combination with the results of the pedagogy assessment, that the candidate has satisfied all program completion requirements.

WSR 05-23-041

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed November 9, 2005, 2:00 p.m., effective December 10, 2005]

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

Purpose: The amendments to this rule are editorial. They delete incorrect wording and clarify the current requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-211.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 05-19-092 on September 20, 2005.

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 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: October 28, 2005.

Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 02-18-037, filed 8/26/02, effective 9/26/02)

WAC 180-79A-211 Academic and experience requirements for certification—Administrators. Candidates for the respective administrative certificate shall complete the following requirements in addition to those set forth in WAC 180-79A-150 and 180-79A-213.

(1) Superintendent.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least forty-five quarter credit hours (thirty semester credit hours) of graduate level course work in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 180-79A-150(4).

(b) Continuing.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least sixty quarter credit hours (forty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 180-79A-150(4).

(iii) Candidates applying for continuing superintendent's certificate 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.

(2) Principal.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of principals.

(ii) The candidate shall have documented successful school-based experience in an instructional role with students.

(b) Residency.

(i) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of principals.

(ii) The candidate shall have documented successful school-based experience in an instructional role with students.

(c) Continuing.

(i) The candidate who ~~((applies))~~ holds a valid initial principal's certificate issued prior to August 31, 1998, shall hold an approved master's degree and completed subsequent to the baccalaureate degree at least forty-five hours (thirty semester hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate who applies on or after August 31, 1998, shall hold a valid initial principal's certificate, an approved master's degree and shall have completed at least

fifteen quarter (ten semester) credit hours of graduate course work offered by a college or university with a state approved principal program or one hundred fifty clock hours of study, which meet the state continuing education clock hour criteria pursuant to chapter 180-85 WAC, or a combination of credits and clock hours equivalent to the above. Such study shall:

(A) Be based on the principal performance domains included in WAC 180-78A-270 (2)(a) or (b);

(B) Be taken subsequent to the issuance of the initial principal's certificate; and

(C) Be determined in consultation with and approved by the candidate's employer or the administrator of a state approved principal preparation program.

(iii) Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the academic requirement for the continuing certificate described in WAC 180-79A-211 (2)(c)(i), if the candidate meets requirements for and applies for the continuing certificate by the expiration date on that initial certificate.

(iv) The candidate must meet requirements for a principal's certificate pursuant to WAC 180-79A-150(4).

(v) Candidates applying for continuing principal's certificate 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. Candidates applying for the continuing principal's certificate on or after August 31, 1998, shall provide documentation of three contracted school years of full-time employment as a principal or assistant principal.

(vi) Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the one hundred-eighty day experience requirement described in WAC 180-79A-211 (2)(c)(v), if that candidate meets requirements and applies for the continuing certificate by the expiration date on that initial certificate.

(d) Professional certificate.

(i) The candidate shall have completed an approved professional certificate program.

(ii) The candidate shall have satisfactory evaluations while serving in the principal or assistant principal role as verified by a school district or a state board of education approved private school.

(iii) The candidate shall have documentation of three contracted school years of employment as a principal or assistant principal.

(3) Program administrator.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least twenty-four quarter credit hours (sixteen semester credit hours) of graduate level course work in education.

(b) Residency certificate.

(i) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of ~~((principals))~~ program administrators.

(ii) The candidate shall have documented successful school-based experience in an instructional role with students.

(c) Continuing.

(i) The candidate shall hold a valid initial program administrator's certificate, an approved master's degree and have completed subsequent to the baccalaureate degree at least thirty quarter credit hours (twenty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) Candidates applying for continuing program administrator's certificate 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.

(d) Professional certificate.

(i) The candidate shall have completed an approved professional certificate program.

(ii) The candidate shall have satisfactory evaluations while serving in a program administrator role as verified by a school district or a state board of education approved private school.

WSR 05-23-042

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed November 9, 2005, 2:02 p.m., effective December 10, 2005]

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

Purpose: The purpose of the amendments to these rules is to delay the implementation of the professional certificate for administrators for one year until September 1, 2007.

Citation of Existing Rules Affected by this Order: Amending WAC 180-78A-507 and 180-79A-145.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 05-19-097 on September 20, 2005.

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 2, 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 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: October 28, 2005.

Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 04-21-039, filed 10/15/04, effective 11/15/04)

WAC 180-78A-507 Overview—Principal/program administrator(~~(, school psychologist, school counselor, and school social worker)~~) professional certificate programs. By September 1, (~~(2006)~~) 2007, all colleges and universities offering a professional certificate program for principals/program administrators must be in compliance with the new program standards. (~~(By September 1, 2007, all colleges and universities offering a professional certificate program for school psychologists, school counselors, and school social workers must be in compliance with the new standards for the professional certificate.)~~) To obtain a professional certificate, the residency principal will need to complete a state board of education approved professional certificate program, have satisfactory district evaluations for an administrator role, and document three contracted school years of employment as a principal or assistant principal; the residency program administrator will need to complete a state board of education approved professional certificate program and have satisfactory district evaluations for an administrator role.

The professional certificate for principals/program administrators requires successful demonstration of six standards at the professional certification benchmark levels, or above, and the candidate will need to provide evidence that he/she has had a positive impact on student learning.

The candidate and college or university shall develop an individual professional growth plan to be reviewed and agreed upon after input from and consultation and collaboration with his/her professional growth team. The individual growth plan shall address the six knowledge and skills standards, focus on activities that enhance student learning, and be informed by the performance evaluation process, and an analysis of the administrative context and assignment.

AMENDATORY SECTION (Amending WSR 05-15-023, filed 7/7/05, effective 8/7/05)

WAC 180-79A-145 Levels of certificates, initial/residency and continuing/professional. Two levels of certification may be issued.

(1) Initial and continuing certificates: Teachers with program completion dates through August 31, 2000, administrators with program completion dates through August 31, 2004, and educational staff associates with program completion dates through August 31, 2005, will be issued the following levels of certificates: Provided, That initial and continuing teachers' certificates after August 31, 2000, initial and continuing principal and program administrator certificates after August 31, 2004, and initial and continuing educational staff associate certificates after August 31, 2005, will be issued only to previous Washington certificate holders, pursuant to WAC 180-79A-123:

(a) Initial certificate. The initial teacher certificate is valid for four years and the initial administrator and educational staff associate certificates are valid for seven years. Initial teacher certificates shall be subject to renewal pursuant to WAC 180-79A-250(1) and 180-79A-123. Initial administrator and educational staff associate certificates shall not be subject to renewal. Initial administrator and educational staff associate certificate holders shall be issued a continuing certificate if they meet the requirements for such certificate. Initial administrator and educational staff associate certificate holders shall be issued a residency certificate if their initial certificate has lapsed or they do not meet the requirements for a continuing certificate.

(b) Continuing certificate. The continuing certificate is valid on a continuing basis as specified in WAC 180-79A-250(3).

(2) Residency and professional certificates: Teachers, administrators, and educational staff associates with program completion dates commencing with the dates indicated below will be issued the following levels of certificates:

(a) Residency certificate. The residency certificate will be issued to teachers beginning September 1, 2000, to principal/program administrators beginning September 1, 2004, and to educational staff associate school counselors, school psychologists, and school social workers no later than September 1, 2005.

(b) The residency certificate for principals, program administrators, and educational staff associates is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250 (2)(b) and (c).

(c) The first issue of a residency certificate for teachers employed in a school district or state agency that provides educational services for students shall be valid until the holder is no longer on provisional status. When the teacher for the first time in their career completes provisional status, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the teacher must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(a).

(d) The first issue of a residency certificate for teachers employed in a state approved private school shall be valid until the holder has completed two years of successful teaching. When the teacher for the first time in their career completes two years of successful teaching, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the teacher must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(a).

(e) The first issue of a residency certificate for principals, program administrators, and educational staff associates shall be valid until the holder has completed two successful years of service in the role. When the principal, program administrator, or educational staff associate for the first time in their career completes two years of successful service in a school district, state approved private school, or state agency, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the candidate must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(b) and (c).

(f) Professional certificate. The professional certificate will be issued to teachers beginning September 1, 2001, to principals/program administrators beginning September 1, ((2006)) 2007, and to educational staff associate school counselors, school psychologists, and school social workers beginning September 1, 2007. The professional certificate is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250. Provided, That a professional teacher's certificate based on the possession of a valid teacher's certificate issued by the National Board for Professional Teaching Standards National Board Certification pursuant to WAC 180-79A-257 (3)(b) or 180-79A-206 (3)(a) shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

WSR 05-23-043

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed November 9, 2005, 2:04 p.m., effective December 10, 2005]

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

Purpose: The purpose of the amendments to these rules is to allow administrators and educational staff associates to obtain the continuing certificate in specific situations when their initial certificate has expired by paying a \$100 late fee (such a rule is already in place for teachers).

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-123, 180-79A-130, and 180-79A-250.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 05-19-094 on September 20, 2005.

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 3, 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 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: October 28, 2005.

Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 05-15-050, filed 7/12/05, effective 8/12/05)

WAC 180-79A-123 Certificates—Previous standards. (1) Certificates issued under previous standards which were issued for a specific term shall continue to be effective for that term.

(2) Certificates issued under previous standards which were issued for an indefinite period shall continue to be in effect.

(3) All persons who hold any standard teacher, administrator, or specialized personnel certificate issued under previous standards of the state board of education shall be issued a continuing certificate at such time as it is necessary for them to reissue a standard certificate or on application and payment of the fee as specified in WAC 180-79A-130.

(4) Any person who holds a provisional principal's or provisional superintendent's certificate under previous standards of the state board of education shall be issued upon application, including payment of applicable fees, a continuing ((administrative)) administrator's certificate for the appropriate role and such certificates shall be subject to the continuing education requirements of chapter 180-85 WAC.

(5) Any person holding a provisional certificate as a school nurse under provisions of chapter 180-84 WAC shall be granted a continuing certificate.

(6) All persons who hold a valid initial certificate granted under previous standards of the state board of education shall be authorized to meet requirements for continuing certification as set forth in the relevant previous standards except as noted below in subsections (7), (8) or (9) of this section.

(7) Any person with a valid initial teacher's certificate granted under previous standards of the state board of education may renew that certificate once after August 31, 2000. The individual shall meet requirements for and apply for the continuing certificate by the expiration date on the renewed certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for initial renewal or continuing certificate under the provisions of WAC 180-79A-250 (1)(a) prior to their expiration date, but whose initial certificate expired after August 31, 2000, because they applied for certification too late, may apply once for such renewal or continuing certificate and will be issued such certificate.

(8) Any person with a valid initial administrator certificate granted under previous standards of the state board of education shall meet requirements for and apply for the continuing certificate by the expiration date on the initial certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for a continuing certificate under the provisions of WAC 180-79A-250 (1)(b) prior to their expiration date, but whose initial certificate expired after June 30, 2004, because they applied for certification too late, may apply for such continuing certificate and will be issued such certificate.

(9) Any person with a valid initial ESA certificate granted under previous standards of the state board of education shall meet requirements for and apply for the continuing certificate by the expiration date on the initial certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for a continuing certificate under the provisions of WAC 180-79A-250 (1)(c) prior to their expiration date, but whose initial certificate expired after June 30, 2005, because they applied for certification too late, may apply for such continuing certificate and will be issued such certificate.

AMENDATORY SECTION (Amending WSR 05-15-024, filed 7/7/05, effective 8/7/05)

WAC 180-79A-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, thirty-five dollars;

(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; and

(d) Any other certificate or credential or any renewal thereof, five dollars for each year of validity:

(e) Provided, That the fee for all career and technical education certificates shall be one dollar:

(f) Provided, That a one-time late fee for a renewed initial or continuing certificate issued under the provisions of WAC 180-79A-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. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, 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. Moneys 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.

(d) Use of certification fees described in this section shall be reported annually to the state board of education pursuant to WAC 180-79A-131(5).

AMENDATORY SECTION (Amending WSR 05-15-053, filed 7/12/05, effective 8/12/05)

WAC 180-79A-250 Initial/residency and continuing/professional certificates—Renewal, reinstatement, and continuing education requirements. The following shall apply to initial/residency and continuing/professional certificates issued pursuant to this chapter:

(1) Initial certificate.

(a) Teachers.

An initial teacher certificate may be renewed for an additional three-year period on application and verification that the individual has completed all course work requirements from a regionally accredited institution of higher education as defined in WAC 180-78A-010(6) for continuing certification or has completed at least fifteen quarter credit hours (ten semester credit hours) since the certificate was issued or renewed. After August 31, 2000, provisions of WAC 180-79A-123 will apply.

(b) Administrators.

After June 30, 2004, provisions of WAC 180-79A-123(8) will apply.

(c) Educational staff associates.

After June 30, 2005, provisions of WAC 180-79A-123(9) will apply.

(2) Residency certificate. Residency certificates shall be renewed under one of the following options:

(a) Teachers.

(i) Individuals who hold, or have held, a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535 (1)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who do not qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535 (1)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work (normally one hundred level or higher) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(iii) An individual who completes a national board certification assessment but does not earn national board certification, may use that completed assessment to renew the residency certificate for two years.

(iv) Individuals who complete the requirements in their school district professional growth plan may use that completed plan to maintain the continuing certificate or renew the professional certificate.

(b) Principals/program administrators.

(i) Individuals who hold, or have held, a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535 (2)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who do not qualify for enrollment in a professional certificate program under WAC 180-78A-535 (2)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work, directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the residency certificate. Renewal beyond one time requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) plus an internship approved by a college or university with a state board approved residency certificate program and taken since the issuance of the last residency certificate.

(c) School counselors, school psychologists, or school social workers.

(i) Individuals who hold a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535(3) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, a residency certificate who do not qualify for admission to a professional certificate program under WAC 180-78A-535 (3)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work, directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the residency certificate. Renewal for an additional five-year period requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) completed since the issuance of the most recent residency certificate plus an internship approved by a college or university with a state board approved residency certificate program and taken since the issuance of the last residency certificate.

(d) Renewals based on conditions other than those described in WAC 180-79A-250 (2)(a) and (b) may be appealed to the state board of education, or its designated appeals committee. The following conditions apply to such appeals:

(i) Individuals who appeal shall present a rationale and evidence to support their request to have their residency certificates renewed.

(ii) The state board of education, or its designated appeals committee, in making its decision shall determine the length of the renewal and may establish specific conditions (such as course work requirements) as prerequisites for the reissuance of the residency certificate.

(3) Continuing certificate.

(a) The continuing certificates of holders who were eligible for such certificates prior to August 31, 1987, and who applied for such certificates prior to July 1, 1988, or who

would have been eligible for such certificates prior to August 31, 1987, but for one of the three-year experience requirement and who complete such requirement and apply for such certificate prior to August 31, 1988, will be valid for life. Holders of valid continuing certificates affected by this subsection shall be entitled to have such certificate reissued and subject to the terms and conditions applicable to certification at the time of reissuance including the continuing education requirements of chapter 180-85 WAC.

(b) All continuing certificates not affected by the exception stated in (a) of this subsection shall lapse if the holder does not complete the continuing education requirement, to include the filing requirement specified in chapter 180-85 WAC. To reinstate such a lapsed continuing certificate the individual must complete the requirements for reinstatement stated within chapter 180-85 WAC and must meet the conditions stated in WAC 180-79A-253.

(4) Professional certificate.

(a) Teachers.

(i) A valid professional certificate may be renewed for additional five year periods by the completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued. An expired professional certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application. All continuing education credit hours shall relate to either (a)(i)(A) or (B) of this subsection: Provided, That both categories (a)(i)(A) and (B) of this subsection must be represented in the one hundred fifty continuing education credit hours required for renewal:

(A) One or more of the following three standards outlined in WAC 180-78A-540:

(I) Effective instruction.

(II) Professional contributions.

(III) Professional development.

(B) One of the salary criteria specified in RCW 28A.415.023.

(I) Is consistent with a school-based plan for mastery of student learning goals as referenced in RCW 28A.320.205, the annual school performance report, for the school in which the individual is assigned;

(II) Pertains to the individual's current assignment or expected assignment for the subsequent school year;

(III) Is necessary to obtain an endorsement as prescribed by the state board of education;

(IV) Is specifically required to obtain advanced levels of certification; or

(V) Is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certified instructional staff.

(ii) Provided, That a professional certificate may be renewed based on the possession of a valid teaching certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(b) Principals/program administrators.

(i) A professional certificate may be renewed for additional five year periods for individuals employed as a principal, assistant principal or program administrator in a public school or state board approved private school by:

(A) Completion of a professional growth plan that is developed and approved with the superintendent, superintendent designee, or appointed representative (e.g., educational service district personnel, professional association or organization staff, or peer from another district), and that documents formalized learning opportunities and professional development activities that:

- (I) Emphasize continuous learning;
- (II) Positively impact student learning;
- (III) Relate to the six standards and "career level" benchmarks defined in WAC 180-78A-270 (2)(b);
- (IV) Explicitly connect to the evaluation process;
- (V) Reflect contributions to the school, district, and greater professional community; and
- (VI) Identify areas in which knowledge and skills need to be enhanced.

(B) Verification of satisfactory performance evaluations for the five year periods; and

(C) Documented evidence of results of the professional growth plan on student learning.

(ii) Individuals not employed as a principal, assistant principal, or program administrator in a public school or state board approved private school may have their professional certificate renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the professional certificate. Renewal beyond one time requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) plus an internship approved by a college or university with a state board approved professional certificate program, and taken since the issuance of the last professional certificate.

(c) School counselors, school psychologists, or school social workers.

(i) A professional certificate may be renewed for additional five-year periods for individuals employed as a school counselor, school psychologist, or school social worker in a public school, state board approved private school, or in a state agency which provides educational services to students by:

(A) Completion of a professional growth plan that is developed and approved with the principal or principal designee, and that documents formalized learning opportunities and professional development activities that:

- (I) Emphasize continuous learning;
- (II) Positively impact student learning; and
- (III) Reflect contributions to the school, district, and greater professional community; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued and which relate to the current perfor-

mance-based standards as defined in WAC 180-78A-270 (5), (7), or (9).

(ii) Individuals not employed as a school counselor, school psychologist, or a school social worker in a public school or state board approved private school may have their professional certificate renewed for an additional five-year period by:

(A) Completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9).

WSR 05-23-044

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed November 9, 2005, 2:06 p.m., effective December 10, 2005]

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

Purpose: This is a technical amendment clarifying the authority for the chapter.

Citation of Existing Rules Affected by this Order: Amending WAC 180-38-005 Purpose and authority.

Statutory Authority for Adoption: RCW 28A.210.160.

Adopted under notice filed as WSR 05-19-099 on September 20, 2005.

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 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: October 28, 2005.

Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 02-24-019, filed 11/26/02, effective 12/27/02)

WAC 180-38-005 Purpose and authority. (1) The purpose of this chapter is to establish the procedural and substantive due process requirements governing the exclusion of students from public and private schools for failure to comply

with the immunization requirement of the state of Washington or, in the case of public schools only, failure to present a medication or treatment order for a life-threatening health condition.

(2) The authority for this chapter is RCW 28A.210.160 ((and 28A.210.xxx)).

WSR 05-23-045
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed November 9, 2005, 2:07 p.m., effective December 10, 2005]

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

Purpose: This chapter is repealed as the underlying authority for the rule has been repealed.

Citation of Existing Rules Affected by this Order: Repealing chapter 180-41 WAC, Pupil safety.

Adopted under notice filed as WSR 05-19-100 on September 20, 2005.

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 7.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 7.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 7; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 28, 2005.

Larry Davis
 Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 180-41-010 Evacuation of buildings in sudden emergency—Regulatory provisions relating to RCW 28A.305.130(11).
- WAC 180-41-015 Evacuation of buildings in sudden emergency—Responsibilities of school authorities.
- WAC 180-41-020 Evacuation of buildings in sudden emergency—Classroom instruction.
- WAC 180-41-025 Evacuation of buildings in sudden emergency—Out-of-class traffic.

- WAC 180-41-030 Evacuation of buildings in sudden emergency—School personnel.
- WAC 180-41-035 Evacuation of buildings in sudden emergency—Emergency exit drills.
- WAC 180-41-040 Evacuation of buildings in sudden emergency—Exit alarm and recall signal systems.

WSR 05-23-046
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed November 9, 2005, 2:09 p.m., effective December 10, 2005]

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

Purpose: The changes remove reference to a repealed WAC and add a definitive requirement to be met.

Citation of Existing Rules Affected by this Order: Amending WAC 180-33-015 Eligibility for state financial assistance.

Statutory Authority for Adoption: RCW 28A.525.020.

Adopted under notice filed as WSR 05-19-101 on September 20, 2005.

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 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: October 28, 2005.

Larry Davis
 Executive Director

AMENDATORY SECTION (Amending WSR 91-12-058, filed 6/5/91, effective 7/6/91)

WAC 180-33-015 Eligibility for state financial assistance. (1) In order to be eligible for state financial assistance, a modernization project shall have as its principal purpose one or more of the following:

- (a) Bringing a facility into compliance with current building and health codes when so required by state or local health or safety officials;
- (b) Changing the grade span grouping by facility by the addition, deletion, or combination thereof of two or more grades within the affected facility; ((or))

(c) The reduction of the number of operating school facilities in a district by combining the remaining school facilities through modernization and new capital construction so as to achieve more cost effective and efficient operation in the combined school facility or facilities. In order to be eligible for state financial assistance, such a project shall result in additional space for at least 100 additional pupils and the following enrollment in any combined facility:

- (i) Elementary school facility—500 pupils;
- (ii) Middle or junior high school facility—700 pupils;
- (iii) Senior high school facility—850 pupils;

Provided, That modernization projects in school districts with a high school enrollment of less than 850 pupils need not comply with the enrollment figures set forth above: Provided further, That unless the district (~~meets an exception provided in WAC 180-33-043 or~~) demonstrates the existence of unhousted students, state financial assistance for the new construction component of a combined modernization and new construction project shall be limited to the provision of WAC 180-33-040; or

(d) Meeting the educational program of the facility.

(2) School districts shall certify that a proposed modernization project will extend the life of the modernized school facility by at least twenty years.

(3) School districts shall be ineligible for state assistance for modernization of any school facility accepted by the school district board of directors prior to January 1, 1993, where the principal purpose of that modernization project is to:

(a) Restore building systems and subsystems that have deteriorated due to deferred maintenance;

(b) Perform piecemeal work on one section or system of a school facility;

(c) Modernize a facility or any section thereof which has been constructed within the previous twenty years;

(d) Modernize a facility or any section thereof which has received state assistance under the authority of this chapter within the previous twenty years;

(e) To modernize a senior high school facility in a district with a senior high school where there is existing space available to serve the students involved or affected in a neighboring senior high school without, in the judgment of the state board of education, an undue increase in the cost of transporting the students to and from school, decrease in educational opportunity, or proportional increase in the cost of instruction pursuant to chapter 180-25 WAC.

(4) School facilities accepted by the school district board of directors after January 1, 1993, shall be ineligible for state assistance for modernization of the facility or any section thereof where:

(a) The facility was constructed and occupied within the previous thirty years;

(b) The facility received state assistance under the authority of this chapter within the previous thirty years.

WSR 05-23-047

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed November 9, 2005, 2:10 p.m., effective December 10, 2005]

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

Purpose: Chapter was repealed as language had been incorporated into chapter 180-08 WAC previously.

Citation of Existing Rules Affected by this Order: Repealing chapter 180-10 WAC, Assess [Access] to public records.

Statutory Authority for Adoption: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.]340.

Adopted under notice filed as WSR 05-19-096 on September 20, 2005.

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 12.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 12.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 12; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 28, 2005.

Larry Davis
Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 180-10-001	Purpose.
WAC 180-10-003	Description of organization.
WAC 180-10-005	Operations and procedures.
WAC 180-10-007	Definitions.
WAC 180-10-010	Access to public records.
WAC 180-10-015	Public records officer.
WAC 180-10-020	Office hours.
WAC 180-10-025	Requests for public records.
WAC 180-10-030	Copying.
WAC 180-10-035	Determination regarding exempt records.
WAC 180-10-040	Review of denials of public record requests.
WAC 180-10-045	Protection of public records.

WSR 05-23-048

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed November 9, 2005, 2:11 p.m., effective December 10, 2005]

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

Purpose: This chapter is being repealed as the authority for the rule no longer exists.

Citation of Existing Rules Affected by this Order: Repealing chapter 180-81 WAC, Professional education—Masters in teaching degree.

Adopted under notice filed as WSR 05-19-098 on September 20, 2005.

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 8.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 8.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 8; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 28, 2005.

Larry Davis
Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 180-81-003	Authority.
WAC 180-81-005	Purpose.
WAC 180-81-010	Compliance with this chapter necessary for certification.
WAC 180-81-015	Application for degree approval.
WAC 180-81-020	Admission standard—Program approval requirement.
WAC 180-81-025	Certification standard—Program approval requirement.
WAC 180-81-030	Academic advising—Program approval requirement.
WAC 180-81-035	Program review—Program approval standard.

WSR 05-23-049

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed November 9, 2005, 2:13 p.m., effective December 10, 2005]

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

Purpose: The changes clarify the issuance of high school credits through the National Guard youth challenge program.

Citation of Existing Rules Affected by this Order: Amending WAC 180-50-320 Equivalency course of study.

Statutory Authority for Adoption: RCW 28A.305.130.

Adopted under notice filed as WSR 05-19-095 on September 20, 2005.

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 1, Amended 1, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 1, 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: October 28, 2005.

Larry Davis
Executive Director

AMENDATORY SECTION (Amending Order 12-84, filed 10/4/84)

WAC 180-50-320 Equivalency course of study—National Guard high school career training and Washington National Guard youth challenge program—Approval procedures. (1) School districts may accept National Guard high school career training and Washington National Guard youth challenge program participation in lieu of either required or elective high school credits. Students who are enrolled in such training or a National Guard program with the approval of the school district of last attendance shall be considered enrolled in such district for state equalization apportionment and other appropriate purposes in accord with the provisions of RCW 28A.150.310.

(2) Approval by the district shall be obtained prior to a student's participation in a National Guard career training or youth challenge program as follows:

~~((1) MHL Form 115 or an equivalent form now or hereafter))~~ (a) An appropriate form provided by the National Guard shall be completed and filed with the school district; and

~~((2))~~ (b) The number of credits toward high school graduation to be granted shall be calculated, agreed upon by the student and an authorized representative of the school district, and such agreement shall be noted on ~~((MHL Form 115 or such equivalent form))~~ the form required under (a) of this subsection.

(c) Credit toward high school graduation may be granted by the school district upon written certification by a National Guard training unit commander (~~(on the completion component of MIL Form 115 or such equivalent form)~~) or National Guard youth challenge program instructor that the student has met all program requirements.

NEW SECTION

WAC 180-50-325 Washington National Guard youth challenge program—Course content—Credits. See WAC 180-51-120.

WSR 05-23-058

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed November 10, 2005, 11:06 a.m., effective December 11, 2005]

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

Purpose: The changes clarify credits for National Guard youth challenge program, adding a new section specifically for dealing with credits for the program.

Citation of Existing Rules Affected by this Order: Amending WAC 180-51-110 Equivalency credit for alternative learning.

Statutory Authority for Adoption: RCW 28A.230.090.

Adopted under notice filed as WSR 05-19-135 on September 21, 2005.

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 1, Amended 1, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 1, 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: October 28, 2005.

Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 00-19-108, filed 9/20/00, effective 10/21/00)

WAC 180-51-110 Equivalency credit for alternative learning experiences, nonhigh school courses, electronically mediated courses, work experience, and challenges. The board of directors of a district offering a high school diploma shall adopt written policies providing for the granting of high school graduation credit for alternative learning experiences, nonhigh school courses, work experience, and

challenges. High school credits may be given for, but not limited to, the following:

(1) Planned learning experiences conducted away from the school under the supervision or with the approval of the school and linked to one or more of the state learning goals and related essential academic learning requirements;

(2) Work experience on the basis that four hundred five hours of work experience equals one credit;

(3) National Guard high school career training and National Guard youth challenge;

(4) Postsecondary courses in accredited colleges and universities. In the case of courses taken under the statutory running start option under RCW 28A.600.300 through 28A.600.400, the district shall award high school credit pursuant to RCW 28A.230.090(6);

(5) Courses in accredited or approved technical colleges;

(6) Correspondence courses from accredited colleges and universities or schools approved by the National University Education Association or the Distance Education and Training Council;

(7) Electronically mediated courses meeting standards which shall be adopted by written policy by the school district, or standards adopted by the Northwest Association of Schools and Colleges, or the Distance Education and Training Council, or the Commission for International and Trans-regional Accreditation;

(8) Other courses offered by any school or institution if specifically approved for credit by the district; and

(9) Credit based on competency testing, in lieu of enrollment or taking specific courses, may be granted by the district.

NEW SECTION

WAC 180-51-120 Washington National Guard youth challenge program—Course content—Credits. In order to assure that an appropriate number of high school credits are awarded to students who complete a National Guard youth challenge program, whether the program involves a contract with a school district or is operated independently, the following provisions shall apply:

(1) High school credit may be awarded only if the course content is of high school level rigor as determined by and to the district's satisfaction - ninth grade or above, or meets or exceeds the state essential academic learning requirements or grade level expectations at ninth grade or above for the particular subject.

(2) In the case of a contract between a school district and a National Guard youth challenge program, the contract, pursuant to WAC 180-50-320 (2)(b), shall identify the credits the student will be awarded upon satisfactory achievement of the specific learning standards identified in the contract. Determination of satisfactory achievement rests with the school district and may include consideration of recommendations of the program instructor or representative and review of the student's performance while enrolled in the program.

(3)(a) If a student enrolls in a National Guard youth challenge program that is conducted independently, then, when a

student reenrolls in a school district, the district's policy on awarding credit under WAC 180-51-050(6) shall apply.

(b) Credits may be awarded on a Carnegie unit basis as provided under WAC 180-51-050 (1)(a).

(c) Credits may be awarded on a competency basis as provided under WAC 180-51-050 (1)(b).

WSR 05-23-062
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed November 14, 2005, 12:40 p.m., effective December 15, 2005]

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

Purpose: To clarify the benefit options for retirees and the distribution of any remaining contributions upon their death. Washington State Patrol retirement system, law enforcement officers' and fire fighters' retirement system, public employees' retirement system, school employees' retirement system and the teachers' retirement system rules are included.

Citation of Existing Rules Affected by this Order: Repealing WAC 415-110-326 and 415-112-727; and amending WAC 415-02-380, 415-103-225, 415-104-215, and 415-108-326.

Statutory Authority for Adoption: For WAC 415-02-380, 415-110-326 and 415-112-727 is RCW 41.50.050(5); for WAC 415-103-225 is RCW 41.50.050(5), 43.43.271; for WAC 415-104-215 is RCW 41.50.050(5), 41.26.460; for WAC 415-108-326 is RCW 41.50.050(5), 41.40.188, 41.40.660, 41.40.845; for WAC 415-110-610 is RCW 41.50.050(5), 41.35.220; for WAC 415-112-504 is RCW 41.50.050(5), 41.32.530; and for WAC 415-112-505 is RCW 41.50.050(5), 41.32.785, 41.32.851.

Other Authority: For WAC 415-103-225 is RCW 43.43.271; for WAC 415-104-215 is RCW 41.26.460; for WAC 415-108-326 is RCW 41.40.188, 41.40.660, 41.40.845; for WAC 415-110-610 is RCW 41.35.220; for WAC 415-112-504 is RCW 41.32.530, 41.32.550; and for WAC 415-112-505 is RCW 41.32.790, 41.32.785, 41.32.851.

Adopted under notice filed as WSR 05-20-061 on October 3, 2005.

Changes Other than Editing from Proposed to Adopted Version: Amended to reflect that it is not necessary to provide a certified marriage certificate, a copy of a certified marriage certificate will suffice.

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 3, Amended 4, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 4, Repealed 2.

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 3, Amended 4, Repealed 2.

Date Adopted: November 9, 2005.

S. J. Matheson
 Director

AMENDATORY SECTION (Amending WSR 03-12-014, filed 5/27/03, effective 7/1/03)

WAC 415-02-380 ((~~Survivor options factors~~)) How will my retirement allowance be affected if I choose a benefit option with a survivor feature? This section applies to LEOFF Plan 1 and 2; PERS Plan 1, 2, and 3; SERS Plan 2 and 3; TRS Plan 1, 2, and 3; and WSPRS Plan 2. For information about WSPRS Plan 1, see RCW 43.43.278 and WAC 415-103-215.

(1) What is a survivor feature? Some benefit options include a survivor feature, which provides a monthly allowance for your survivor beneficiary after your death.

(2) What is a "(surviving) survivor beneficiary"? ((A surviving beneficiary is a person you designate who will receive benefit payments for the duration of his or her life, beginning at your death.

~~(2) Will selecting a surviving beneficiary affect my retirement benefits? Yes. Retirees who select a surviving beneficiary retirement option receive smaller benefit payments than those retirees who do not select this option.~~

~~(3) Does it matter if I am married? Yes. If you are married, you must provide your spouse's written consent to the option you select (except in LEOFF Plan 1). If you are married, and you and your spouse do not give written consent to an option, the department will pay you a joint and fifty percent survivor benefit and record your spouse as the beneficiary. For details, please review:~~

LEOFF Plan 1:	RCW 41.26.162	WAC 415-104-202
LEOFF Plan 2:	RCW 41.26.460(2)	WAC 415-104-211 and 415-104-215
PERS Plan 1:	RCW 41.40.188(2)	WAC 415-108-324 and 415-108-326
PERS Plan 2:	RCW 41.40.660(2)	WAC 415-108-324 and 415-108-326
PERS Plan 3:	RCW 41.40.845(2)	WAC 415-108-324 and 415-108-326
SERS Plans 2/3:	RCW 41.35.220(2)	WAC 415-110-324 and 415-110-326
FRS Plan 1:	RCW 41.32.530(2)	WAC 415-112-710 to 415-112-727
FRS Plan 2:	RCW 41.32.785(2)	WAC 415-112-710 to 415-112-727
FRS Plan 3:	RCW 41.32.851(2)	WAC 415-112-710 to 415-112-727
WSPRS Plan 2:	RCW 43.43.271(2)	WAC 415-103-225

~~(4) Why does the surviving beneficiary's age matter? The surviving beneficiary's age is used in determining the~~

amount of the payments. The younger the surviving beneficiary, the longer he or she is expected to receive payments. The monthly benefit must be reduced accordingly.

(5) What are the survivor options? The survivor options are described in detail within each plan. For details, please see the list in subsection (3) of this section.

To summarize:

Option 2 – Joint and 100 percent survivorship

Option 3 – Joint and 50 percent survivorship

Option 4 – Joint and 66.67 percent survivorship

(6)) The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary."

(3) What benefit options include a survivor feature?

Benefit options are described in detail for each system and plan in the following state law and regulations:

LEOFF Plan 1:	RCW 41.26.164	WAC 415-104-202
LEOFF Plan 2:	RCW 41.26.460	WAC 415-104-215
PERS Plan 1:	RCW 41.40.188	WAC 415-108-326
PERS Plan 2:	RCW 41.40.660	WAC 415-108-326
PERS Plan 3:	RCW 41.40.845	WAC 415-108-326
SERS Plans 2/3:	RCW 41.35.220	WAC 415-110-326
TRS Plan 1:	RCW 41.32.530	WAC 415-112-492
TRS Plan 2:	RCW 41.32.785	WAC 415-112-493
TRS Plan 3:	RCW 41.32.851	WAC 415-112-493
WSPRS Plan 2:	RCW 43.43.271	WAC 415-103-225

(4) Will selecting a benefit option with a survivor feature affect my monthly retirement allowance? Yes. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature.

(5) Does my survivor beneficiary's age affect how much my monthly retirement allowance will be reduced? Yes. Your survivor beneficiary's age is used in determining the amount of your monthly retirement allowance and the allowance of your survivor. The younger the survivor beneficiary, the longer he or she is expected to receive an allowance. Your monthly allowance will be reduced accordingly.

Examples

(a) Example (a):

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
0	.870	.930	.909	.791	.883	.850	.799	.888	.857
1	.862	.926	.904	.778	.875	.840	.773	.872	.836
2	.857	.923	.900	.767	.868	.832	.760	.864	.826
3	.844	.915	.890	.758	.863	.825	.748	.856	.816
4	.840	.913	.887	.751	.858	.819	.741	.851	.811
5	.836	.910	.884	.743	.853	.813	.734	.846	.805
6	.831	.908	.881	.736	.848	.807	.726	.841	.799
7	.818	.900	.871	.728	.843	.801	.719	.836	.793
8	.814	.897	.867	.721	.838	.795	.712	.832	.787
9	.809	.895	.864	.713	.833	.789	.705	.827	.782
10	.805	.892	.861	.706	.828	.783	.698	.822	.776
11	.802	.890	.858	.699	.823	.777	.692	.818	.771
12	.787	.881	.847	.693	.818	.772	.685	.813	.766
13	.784	.879	.845	.686	.814	.766	.679	.809	.760
14	.780	.876	.842	.680	.809	.761	.673	.805	.755

Kendra, a PERS Plan 2 member, chooses Option 3 (joint and 50 percent survivorship) at retirement. She names her nephew, Steve, as her ((surviving)) survivor beneficiary. This means ((that Steve would receive half of Kendra's benefit amount after Kendra's death)), if Kendra dies before Steve. Steve will receive a monthly allowance equal to half the amount Kendra was receiving. Steve is 30 years younger than Kendra. ((PERS would use)) The department will calculate the adjustment to Kendra's monthly retirement allowance by using the survivor option factor table ("member older") ((to calculate the adjustment)) in subsection (6) of this section. With a 30-year age difference (member's age minus beneficiary's age), the value corresponding to PERS Plan 2 and Option 3 is 0.753. This value, 0.753, is multiplied against the amount Kendra would have received under Option 1 (no survivor feature). Kendra's monthly retirement ((benefits)) allowance will be reduced to about 75% of her Option 1 level.

(b) Example (b):

Mark, a LEOFF Plan 2 member, chooses Option 2 (joint and 100 percent survivorship) at retirement. He names his wife, Susan, as his ((surviving)) survivor beneficiary. This means ((Susan would receive the same benefit amount Mark had received prior to his death)), if Mark dies before Susan. Susan will receive a monthly allowance equal to the amount Mark was receiving. Mark is five years younger than Susan. ((LEOFF would use)) The department will calculate the adjustment to Mark's monthly retirement allowance by using the survivor option factor((s)) table ("member younger") ((to calculate the adjustment for the age difference)) in subsection (9) of this section. With a 5-year age difference (member's age minus beneficiary's age), the value corresponding to LEOFF Plan 2 and Option 2 is 0.894. This value, 0.894, will be multiplied against the amount Mark would have received under Option 1 (no survivor feature). Mark's monthly retirement ((benefits)) allowance will be reduced to about 89 percent of his Option 1 level.

((7)) (6) Table - Member older (PERS and SERS)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
15	.777	.874	.839	.673	.805	.756	.667	.800	.750
16	.773	.872	.836	.667	.801	.751	.662	.796	.746
17	.770	.870	.834	.662	.796	.746	.656	.792	.741
18	.767	.868	.832	.656	.792	.741	.651	.789	.737
19	.764	.866	.829	.651	.788	.736	.646	.785	.732
20	.762	.865	.827	.645	.785	.732	.641	.781	.728
21	.759	.863	.825	.640	.781	.728	.637	.778	.724
22	.756	.861	.823	.636	.777	.724	.632	.775	.720
23	.754	.860	.821	.631	.774	.720	.628	.771	.717
24	.752	.858	.820	.627	.771	.716	.624	.768	.713
25	.750	.857	.818	.622	.767	.712	.620	.765	.710
26	.748	.856	.817	.618	.764	.709	.616	.762	.707
27	.746	.855	.815	.615	.761	.705	.613	.760	.703
28	.744	.853	.814	.611	.758	.702	.609	.757	.700
29	.743	.852	.812	.607	.756	.699	.606	.755	.697
30	.741	.851	.811	.604	.753	.696	.603	.752	.695
31	.740	.850	.810	.601	.751	.693	.600	.750	.692
32	.738	.849	.809	.598	.748	.690	.597	.748	.690
33	.737	.849	.808	.595	.746	.688	.594	.745	.687
34	.736	.848	.807	.592	.744	.685	.592	.743	.685
35	.735	.847	.806	.589	.742	.683	.589	.741	.683
36	.734	.846	.805	.587	.740	.680	.587	.740	.680
37	.733	.846	.804	.584	.738	.678	.585	.738	.678
38	.732	.845	.804	.582	.736	.676	.582	.736	.677
39	.731	.844	.803	.580	.734	.674	.580	.734	.675
40	.730	.844	.802	.578	.732	.672	.578	.733	.673

((8)) (7) Table - Member younger (PERS and SERS)
 Survivor option factor((s)) table: Member younger than beneficiary
 Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
-20	.958	.978	.971	.939	.969	.959	.949	.974	.965
-19	.955	.977	.970	.935	.967	.956	.946	.972	.963
-18	.952	.976	.968	.931	.964	.953	.942	.970	.961
-17	.949	.974	.966	.927	.962	.950	.938	.968	.958
-16	.947	.973	.964	.922	.959	.947	.934	.966	.955
-15	.944	.971	.962	.917	.957	.943	.930	.964	.952
-14	.940	.969	.959	.912	.954	.940	.926	.961	.949
-13	.937	.968	.957	.907	.951	.936	.921	.959	.946
-12	.934	.966	.955	.902	.948	.932	.917	.956	.943
-11	.930	.964	.953	.896	.945	.928	.912	.954	.939
-10	.927	.962	.950	.890	.942	.924	.907	.951	.936
-9	.923	.960	.948	.884	.938	.919	.901	.948	.932
-8	.920	.958	.945	.878	.935	.915	.896	.945	.928
-7	.916	.956	.942	.871	.931	.910	.890	.942	.924
-6	.912	.954	.940	.865	.927	.905	.885	.939	.920
-5	.908	.952	.937	.858	.924	.901	.879	.935	.916
-4	.901	.948	.931	.848	.918	.893	.873	.932	.911
-3	.896	.945	.928	.840	.913	.887	.863	.927	.905
-2	.889	.941	.923	.826	.905	.877	.853	.920	.897
-1	.879	.935	.916	.805	.892	.861	.834	.909	.883
0	.870	.930	.909	.791	.883	.850	.799	.888	.857

((9)) (8) Table - Member older (LEOFF Plan 2 and WSPRS Plan 2)

Survivor option factor(s) table: Member older than beneficiary
 Age difference: Member's age minus beneficiary's age

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
0	0.870	0.930	0.909	0.870	0.930	0.909
1	0.865	0.927	0.905	0.865	0.927	0.905
2	0.860	0.924	0.902	0.860	0.924	0.902
3	0.855	0.922	0.898	0.855	0.922	0.898
4	0.850	0.919	0.894	0.850	0.919	0.894
5	0.845	0.916	0.891	0.845	0.916	0.891
6	0.840	0.913	0.887	0.840	0.913	0.887
7	0.835	0.910	0.883	0.835	0.910	0.883
8	0.830	0.907	0.880	0.830	0.907	0.880
9	0.825	0.904	0.876	0.825	0.904	0.876
10	0.821	0.902	0.873	0.821	0.902	0.873
11	0.816	0.899	0.870	0.816	0.899	0.870
12	0.812	0.896	0.866	0.812	0.896	0.866
13	0.808	0.894	0.863	0.808	0.894	0.863
14	0.803	0.891	0.860	0.803	0.891	0.860
15	0.799	0.888	0.857	0.799	0.888	0.857
16	0.795	0.886	0.854	0.795	0.886	0.854
17	0.792	0.884	0.851	0.792	0.884	0.851
18	0.788	0.881	0.848	0.788	0.881	0.848
19	0.784	0.879	0.845	0.784	0.879	0.845
20	0.781	0.877	0.842	0.781	0.877	0.842
21	0.777	0.875	0.840	0.777	0.875	0.840
22	0.774	0.873	0.837	0.774	0.873	0.837
23	0.771	0.871	0.835	0.771	0.871	0.835
24	0.768	0.869	0.832	0.768	0.869	0.832
25	0.765	0.867	0.830	0.765	0.867	0.830
26	0.763	0.865	0.828	0.763	0.865	0.828
27	0.760	0.864	0.826	0.760	0.864	0.826
28	0.757	0.862	0.824	0.757	0.862	0.824
29	0.755	0.860	0.822	0.755	0.860	0.822
30	0.753	0.859	0.820	0.753	0.859	0.820
31	0.750	0.857	0.818	0.750	0.857	0.818
32	0.748	0.856	0.817	0.748	0.856	0.817
33	0.746	0.855	0.815	0.746	0.855	0.815
34	0.744	0.853	0.814	0.744	0.853	0.814
35	0.742	0.852	0.812	0.742	0.852	0.812
36	0.741	0.851	0.811	0.741	0.851	0.811
37	0.739	0.850	0.809	0.739	0.850	0.809
38	0.737	0.849	0.808	0.737	0.849	0.808
39	0.736	0.848	0.807	0.736	0.848	0.807
40	0.734	0.847	0.806	0.734	0.847	0.806

((10)) (9) Table - Member younger (LEOFF Plan 2 and WSPRS Plan 2)

Survivor option factor(s) table: Member younger than beneficiary
 Age difference: Member's age minus beneficiary's age

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
-20	0.953	0.976	0.968	0.953	0.976	0.968
-19	0.950	0.974	0.966	0.950	0.974	0.966
-18	0.947	0.973	0.964	0.947	0.973	0.964
-17	0.944	0.971	0.962	0.944	0.971	0.962

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
-16	0.940	0.969	0.959	0.940	0.969	0.959
-15	0.937	0.967	0.957	0.937	0.967	0.957
-14	0.933	0.965	0.954	0.933	0.965	0.954
-13	0.929	0.963	0.952	0.929	0.963	0.952
-12	0.925	0.961	0.949	0.925	0.961	0.949
-11	0.921	0.959	0.946	0.921	0.959	0.946
-10	0.917	0.957	0.943	0.917	0.957	0.943
-9	0.913	0.954	0.940	0.913	0.954	0.940
-8	0.908	0.952	0.937	0.908	0.952	0.937
-7	0.904	0.949	0.934	0.904	0.949	0.934
-6	0.899	0.947	0.930	0.899	0.947	0.930
-5	0.894	0.944	0.927	0.894	0.944	0.927
-4	0.890	0.942	0.924	0.890	0.942	0.924
-3	0.885	0.939	0.920	0.885	0.939	0.920
-2	0.880	0.936	0.916	0.880	0.936	0.916
-1	0.875	0.933	0.913	0.875	0.933	0.913
0	0.870	0.930	0.909	0.870	0.930	0.909

((11)) (10) Table - Member younger (TRS)

Survivor option factor(s) table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
-20	0.968	0.984	0.979	0.952	0.975	0.967
-19	0.966	0.983	0.977	0.949	0.974	0.965
-18	0.964	0.982	0.976	0.945	0.972	0.963
-17	0.962	0.981	0.974	0.942	0.970	0.960
-16	0.960	0.979	0.973	0.938	0.968	0.958
-15	0.957	0.978	0.971	0.934	0.966	0.955
-14	0.955	0.977	0.969	0.929	0.963	0.952
-13	0.952	0.976	0.968	0.925	0.961	0.949
-12	0.950	0.974	0.966	0.921	0.959	0.946
-11	0.947	0.973	0.964	0.916	0.956	0.942
-10	0.944	0.971	0.962	0.911	0.953	0.939
-9	0.942	0.970	0.960	0.906	0.951	0.935
-8	0.939	0.968	0.958	0.900	0.948	0.931
-7	0.936	0.967	0.956	0.895	0.945	0.927
-6	0.933	0.965	0.954	0.889	0.941	0.923
-5	0.927	0.962	0.950	0.884	0.938	0.919
-4	0.923	0.960	0.947	0.877	0.934	0.914
-3	0.918	0.957	0.944	0.865	0.928	0.906
-2	0.913	0.955	0.941	0.855	0.922	0.899
-1	0.907	0.951	0.936	0.839	0.912	0.887
0	0.898	0.946	0.930	0.815	0.898	0.869

((12)) (11) Table - Member older (TRS)

Survivor option factor(s) table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
0	0.898	0.946	0.930	0.815	0.898	0.869
1	0.892	0.943	0.925	0.801	0.889	0.858
2	0.888	0.941	0.922	0.790	0.883	0.849
3	0.877	0.935	0.915	0.781	0.877	0.842

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
4	0.873	0.932	0.912	0.772	0.871	0.835
5	0.869	0.930	0.909	0.765	0.867	0.830
6	0.858	0.924	0.901	0.758	0.862	0.824
7	0.855	0.922	0.898	0.751	0.858	0.819
8	0.851	0.920	0.896	0.744	0.853	0.813
9	0.848	0.918	0.893	0.737	0.849	0.808
10	0.845	0.916	0.891	0.730	0.844	0.802
11	0.842	0.914	0.889	0.724	0.840	0.797
12	0.839	0.912	0.887	0.717	0.835	0.792
13	0.836	0.911	0.884	0.711	0.831	0.787
14	0.824	0.904	0.875	0.705	0.827	0.782
15	0.821	0.902	0.873	0.699	0.823	0.777
16	0.819	0.900	0.871	0.694	0.819	0.773
17	0.816	0.899	0.869	0.688	0.815	0.768
18	0.814	0.897	0.868	0.683	0.812	0.764
19	0.812	0.896	0.866	0.678	0.808	0.760
20	0.809	0.895	0.864	0.673	0.805	0.755
21	0.807	0.893	0.863	0.668	0.801	0.751
22	0.805	0.892	0.861	0.664	0.798	0.748
23	0.803	0.891	0.860	0.660	0.795	0.744
24	0.802	0.890	0.858	0.655	0.792	0.740
25	0.800	0.889	0.857	0.651	0.789	0.737
26	0.798	0.888	0.856	0.648	0.786	0.734
27	0.797	0.887	0.855	0.644	0.783	0.731
28	0.796	0.886	0.854	0.640	0.781	0.728
29	0.794	0.885	0.853	0.637	0.778	0.725
30	0.793	0.885	0.852	0.634	0.776	0.722
31	0.792	0.884	0.851	0.631	0.774	0.719
32	0.791	0.883	0.850	0.628	0.771	0.717
33	0.790	0.882	0.849	0.625	0.769	0.714
34	0.789	0.882	0.848	0.622	0.767	0.712
35	0.788	0.881	0.848	0.620	0.765	0.710
36	0.787	0.881	0.847	0.617	0.763	0.708
37	0.786	0.880	0.846	0.615	0.762	0.706
38	0.785	0.880	0.846	0.613	0.760	0.704
39	0.785	0.879	0.845	0.611	0.758	0.702
40	0.784	0.879	0.845	0.609	0.757	0.700

1) ~~((13))~~ (12) Table - Member younger (LEOFF Plan

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3%
-20	0.958	0.978	0.971
-19	0.955	0.977	0.969
-18	0.952	0.975	0.967
-17	0.949	0.974	0.965
-16	0.946	0.972	0.963
-15	0.942	0.970	0.961
-14	0.939	0.969	0.959
-13	0.935	0.967	0.956

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3%
-12	0.932	0.965	0.953
-11	0.928	0.963	0.951
-10	0.924	0.960	0.948
-9	0.920	0.958	0.945
-8	0.916	0.956	0.942
-7	0.911	0.954	0.939
-6	0.907	0.951	0.936
-5	0.902	0.949	0.933
-4	0.898	0.946	0.929
-3	0.893	0.943	0.926
-2	0.888	0.941	0.922
-1	0.883	0.938	0.919

~~((14))~~ (13) **Table - Member older (LEOFF Plan 1)**

Survivor option factor(s) table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3%
0	0.878	0.935	0.915
1	0.873	0.932	0.912
2	0.868	0.930	0.908
3	0.864	0.927	0.905
4	0.859	0.924	0.901
5	0.854	0.921	0.898
6	0.849	0.918	0.894
7	0.844	0.915	0.890
8	0.839	0.913	0.887
9	0.835	0.910	0.883
10	0.830	0.907	0.880
11	0.826	0.905	0.877
12	0.821	0.902	0.873
13	0.817	0.899	0.870
14	0.813	0.897	0.867
15	0.809	0.894	0.864
16	0.805	0.892	0.861
17	0.801	0.889	0.858
18	0.797	0.887	0.855
19	0.793	0.885	0.852
20	0.790	0.882	0.849
21	0.786	0.880	0.847
22	0.783	0.878	0.844
23	0.780	0.876	0.841
24	0.777	0.874	0.839
25	0.774	0.872	0.837
26	0.771	0.871	0.834
27	0.768	0.869	0.832
28	0.765	0.867	0.830
29	0.763	0.865	0.828
30	0.760	0.864	0.826
31	0.758	0.862	0.824
32	0.756	0.861	0.823
33	0.753	0.859	0.821
34	0.751	0.858	0.819
35	0.749	0.857	0.818
36	0.747	0.855	0.816
37	0.745	0.854	0.815
38	0.744	0.853	0.813
39	0.742	0.852	0.812
40	0.740	0.851	0.810

AMENDATORY SECTION (Amending WSR 02-23-037, filed 11/13/02, effective 1/1/03)

WAC 415-103-225 What are ~~((the))~~ my WSPRS Plan 2 retirement benefit options? ~~((This section only applies to members commissioned on or after January 1, 2003 (WSPRS Plan 2). RCW 43.43.271 enables the department to provide retiring WSPRS Plan 2 members with an irrevocable choice of four retirement benefit options for receipt of their retirement benefit. The retiring member must choose an option when applying for service retirement:~~

~~(1) Option One: Benefit option without survivor features (standard allowance). The department will pay a monthly retirement allowance based solely on the single life of the retiree, as provided by RCW 43.43.260 (Benefits). When the retiree dies, all benefits end. Any remaining balance of the retiree's accumulated contributions will be paid to:~~

~~(a) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or~~

~~(b) To the retiree's legal representative, if no person or entity designated in (a) of this subsection is living or in existence at the time of the retiree's death.~~

~~(2) Benefit options with a survivor feature.~~

~~(a) At retirement, a member may select a survivor option in lieu of the standard allowance. With a survivor option, the retiree's monthly benefit payment is actuarially reduced from the standard allowance to offset the cost of the survivor features. The retiree designates a person to receive a monthly benefit payment after the retiree dies. The designated person or "survivor beneficiary" will receive this monthly allowance for the remainder of his or her life. If the retiree and survivor beneficiary both die before the retiree's accumulated contributions have been exhausted, all monthly payments end. Any remaining balance of the retiree's accumulated contributions will be paid to:~~

~~(i) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or~~

~~(ii) To the retiree's legal representative, if no person or entity designated in (a)(i) of this subsection is living or in existence at the time of the retiree's death.~~

~~(b) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor beneficiary a monthly benefit equal to the gross monthly allowance then payable to the retiree.~~

~~(c) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor beneficiary a monthly benefit equal to one-half of the amount of the retiree's gross monthly retirement allowance then payable to the retiree.~~

~~(d) Option Four (joint and two-thirds allowance). When the retiree dies, the department pays the survivor beneficiary a monthly benefit equal to two-thirds of the retiree's gross monthly retirement allowance then payable to the retiree.~~

~~(3) Pop-up provision.~~

~~(a) This subsection only applies to retiring members who select a benefit option with a survivor feature (Option Two, Three, or Four).~~

(b) If the survivor beneficiary dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that the retiree would have received had the retiree chosen Option One; plus

(ii) Any cost-of-living adjustments (COLA) the retiree received prior to the survivor beneficiary's death based on the original selection.

(c) If a retiree whose benefit increases under this section dies, all benefit payments end. Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or

(ii) To the retiree's legal representative, if no person or entity designated in (c)(i) of this subsection is living or in existence at the time of the retiree's death.

(4) Postretirement benefit options:

(a) Postretirement marriage option. A retiree who chose the standard allowance (Option One) at the time of retirement, and then marries has a one-time only option to choose a survivor option. The retiree may choose a survivor option that names his or her new spouse as the survivor beneficiary, provided:

(i) The retiree's monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation;

(ii) The retiree makes the choice during the one-year window, on or after the date of the first anniversary and before the second anniversary of the postretirement marriage;

(iii) The retiree provides the department with a copy of a marriage certificate as proof of the postretirement marriage and proof of the birthdate of the new spouse; and

(iv) The retiree properly and timely completes and files the correct forms with the department.

(b) Postretirement survivor change. A retiree who chose a nonspouse as a survivor beneficiary at the time of retirement may remove that survivor designation one-time only. The retiree may have the benefit adjusted to a standard allowance provided the retiree properly and timely completes and files the correct forms with the department.

(c) The change selected under (a) or (b) of this subsection will begin the first of the month following receipt of properly completed and filed paperwork with the department. The change becomes irrevocable on the date that the completed paperwork is received by the department.

(5) For more information, see chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating retirement allowances.

(6) Terms used in this section:

"Pop-up" — see WAC 415-02-030.) This section applies to WSPRS Plan 2 members. Upon retirement for service under RCW 43.43.250, you must choose to have your monthly retirement allowance paid to you by one of the options described in this section.

(1) Which option will pay my beneficiary a monthly allowance after my death? Options described in subsection (2)(b) through (d) of this section include a survivor feature.

The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) What are my benefit options?

(a) Option one: Standard allowance (no survivor option). The department will pay you a monthly retirement allowance throughout your life. Your monthly allowance will cease upon your death.

(b) Option two: Joint and whole allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) Option three: Joint and one-half allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) Option four: Joint and two-thirds allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667 percent) of the gross monthly retirement allowance you were receiving.

(3) Do I need my spouse's consent on the option I choose? If you are married, you must submit your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 43.43.271(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) Can a dissolution order require that a former spouse be designated as a survivor beneficiary? Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do? Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death. Your increased monthly allowance will be:

(a) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(b) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

Example:

John retires from WSPRS in 2008. John chooses a benefit option with a survivor feature and names Beatrice, his daughter, as his survivor beneficiary. As a result, John's monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2013. John's monthly allowance will increase to \$2,191.05, which equals the amount he would have received had he chosen the standard allowance option, plus the COLAs he has received (based on his prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2008	2,000.00	1,750.00		0.00
2009		1,750.00	.02	35.00
2010		1,785.00	.03	53.55
2011		1,838.55	.025	45.96
2012		1,884.51	.03	56.54
2013	2,000.00	1,941.05	=	=
		Total COLA's		191.05
Original Monthly Allowance		+ Total COLA's		= New Monthly Allowance
\$2000		+ \$191.05		= \$2,191.05*

* In the future, John's COLA will be based on his increased monthly allowance.

(6) May I change my benefit option after retirement?

Your choice of a benefit option is irrevocable with the following three exceptions:

(a) Return to membership. If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement.

(b) Postretirement marriage option. If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) Removal of a nonspouse survivor option. If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) Who will receive the balance of my accumulated contributions, if any, after my death?

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(iii) If not paid according to (a)(i) or (ii) of this subsection, then to your estate.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(ii) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(iii) If not paid according to (b)(i) or (ii) of this subsection, then to your survivor beneficiary's estate.

(8) For more information, see RCW 43.43.271.

AMENDATORY SECTION (Amending WSR 03-12-014, filed 5/27/03, effective 7/1/03)

WAC 415-104-215 What are my retirement benefit options—LEOFF Plan 2(+)2 ((RCW 41.26.460 enables the department to provide retiring LEOFF Plan 2 members with four retirement benefit options. The member must choose an option when applying for service or disability retirement.

(1) Option One: Benefit option without survivor features (standard allowance). The department pays the retiree a monthly retirement allowance actuarially based solely on the single life of the member, in accordance with RCW 41.26.430 (service) or 41.26.470 (disability). When the retiree dies, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(a) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(c) The member's estate; or

(d) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) Benefit options with a survivor feature:

(a) A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After

the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, any remaining balance of the retiree's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor a monthly retirement allowance equal to the gross monthly allowance received by the retiree.

(c) Option Three (joint and one half allowance). When the retiree dies, the department pays the survivor one half of the amount of the retiree's gross monthly retirement allowance.

(d) Option Four (joint and two thirds allowance).

(i) Option Four is available to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor two thirds (66.667%) of the retiree's gross monthly retirement allowance.

(3) If a member retires on or after June 6, 1996, the department is required to pay an ex-spouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.

(4) Benefit increases when survivor predeceases retiree (pop-up provision):

(a) This subsection applies to members retiring on or after January 1, 1996, who select a benefit option with a survivor feature (Option Two, Three, or Four).

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Pop-up recalculation example:

Plan Two:

Agnes retires in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option-One (Standard Allow.)	Survivor-Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(inelig.)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Benefit Amount \$2000		+ Total COLA's + \$191.05	= New Benefit Amount = \$2,191.05*	

* In the future (i.e., Year 5), Agnes' COLA will be based on the increased benefit amount (\$2,191.05).

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all employee contributions are exhausted, any remaining balance of the retiree's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(5) Any retiree who retired before January 1, 1996, and who elected to receive a benefit option with a survivor feature under subsection (2) of this section is entitled to receive a retirement allowance adjustment if the retiree meets the following conditions:

(a) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(b) The retiree provides the department proper proof of the designated beneficiary's death.

The retiree is not required to apply for the increased benefit provided in this subsection. The adjusted retirement allowance will be effective on July 1, 1998, or the first day of the month following the date of death of the designated beneficiary, whichever comes last. The adjustment is computed as described in RCW 41.26.460 (3)(c) for Plan 2 retirees.

(6) Postretirement benefit options:

(a) Postretirement marriage option. Members who select the standard allowance (Option One) at the time of retirement and marry after retirement may subsequently select a survivor option with their new spouse as survivor beneficiary, provided that:

(i) The retiree's monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation;

(ii) The selection is made either:

(A) During a one year window, on or after the date of the first anniversary and before the second anniversary of the postretirement marriage; or

(B) Before June 1, 2002, if the postretirement marriage occurred before June 1, 2001;

(iii) The retiree provides a marriage certificate as proof of the postretirement marriage and provides proof of the birthdate of the new spouse; and

(iv) A member may exercise this option one time only.

(b) **Removal of a nonspouse survivor option.** Members who selected a nonspouse as survivor beneficiary at the time of retirement may remove that survivor designation and have the benefit adjusted to a standard allowance. A member may exercise this option one time only.

(c) Selection (a) or (b) of this subsection will become effective the first of the month following the department's receipt of the required paperwork.

(7) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.)) If you retire for service under RCW 41.26.430 or nonduty disability under RCW 41.26.470, or if you choose to receive a monthly allowance for duty disability under RCW 41.26.470, you must choose to have your monthly retirement allowance paid to you by one of the options described in this section.

(1) Which option will pay my beneficiary a monthly allowance after my death? Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) What are my benefit options?

(a) Option one: Standard allowance (no survivor feature). The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death.

(b) Option two: Joint and whole allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) Option three: Joint and one-half allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) Option four: Joint and two-thirds allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) Do I need my spouse's consent on the option I choose? If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.26.460(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) Can a dissolution order require that a former spouse be designated as a survivor beneficiary? Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do? Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death.

(a) Members who retire on or after January 1, 1996. Your increased monthly allowance will be:

(i) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(ii) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death based on your original option selection.

Example:

Agnes retires in 1996. She chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in January 2001. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
1996	2,000.00	1,750.00		0.00
1997		1,750.00	.02	35.00
1998		1,785.00	.03	53.55
1999		1,838.55	.025	45.96
2000		1,884.51	.03	56.54
2001	2,000.00	1,941.05	=	=
			Total COLA's	191.05
	Original Option One Monthly Allowance \$2000	+ Total COLA's + \$191.05	= New Monthly Allowance	= \$2,191.05*

* In the future, Agnes' COLA will be based on her increased monthly allowance.

(b) **Members who retired before January 1, 1996.** Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.26.460(3).

(6) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) **Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department,

(ii) If you have not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your surviving spouse.

(iii) If not paid according to (a)(i) or (ii) of this subsection, then to your estate.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(ii) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(iii) If not paid according to (b)(i) or (ii) of this subsection, then to your survivor beneficiary's estate.

(8) For more information, see RCW 41.26.460.

AMENDATORY SECTION (Amending WSR 01-10-045, filed 4/26/01, effective 6/1/01)

WAC 415-108-326 **What are my retirement benefit options(??)?** ((RCW 41.40.188 (Plan 1), RCW 41.40.660 (Plan 2), and RCW 41.40.845 (Plan 3)) enable the department to provide retiring members with four retirement benefit options for receipt of the defined benefit portion of their retirement benefits. In addition, retiring Plan 1 members may select the COLA (cost-of-living adjustment) option. The retiring member must choose an option(s) when applying for service or disability retirement:

(1) Option One: Benefit option without survivor features (standard allowance). The department will pay a monthly retirement allowance based solely on the single life of the member, as provided by RCW 41.40.185, 41.40.190, 41.40.230, 41.40.235, 41.40.250, 41.40.670, 41.40.820, or 41.40.825. When the retiree dies all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(a) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(c) The member's estate; or

(d) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) Benefit options with a survivor feature.

(a) A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor an allowance equal to the gross monthly allowance received by the retiree.

(c) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor an allowance equal to one-half of the retiree's gross monthly retirement allowance.

(d) Option Four (joint and two-thirds allowance).

(i) Option Four is available to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor an allowance equal to two-thirds (66.667%) of the retiree's gross monthly retirement allowance.

(3) If a member retires on or after June 6, 1996, the department is required to pay an ex-spouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.

(4) Supplemental COLA option for Plan 1 members. Retiring Plan 1 members may select an annual cost-of-living adjustment (COLA) option, in addition to their choice of retirement benefit options listed in subsections (1) and (2) of this section. Retiring members who choose this supplemental

Plan One:

Lucinda retires from PERS Plan 1 in 1996 (Year 0). She would like Garth, her husband, to receive a monthly allowance when she dies. Therefore, Lucinda chooses one of the benefit options with a survivor feature. As a result, her monthly allowance is actuarially reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Garth dies in January 2001 (Year 5). Under the "pop-up" provision, Lucinda's monthly benefit will increase to \$2,000, the amount she would have received had she chosen the Option One (standard allowance) plus any COLA's Lucinda had received based on her prior benefit allowance:

Original Option 1 Benefit Amount	+	Total COLA's	=	New Benefit Amt.
\$2,000.00	+	0 (None accrued)	=	\$2,000.00*

Plan Two:

Agnes retires from PERS Plan 2 in 1996 (Year 0). Agnes would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result, her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(ineligible)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05

Original Option One Benefit Amount	+	Total COLA's	=	New Benefit Amount
\$2000	+	+\$191.05	=	=\$2,191.05*

*In the future (i.e. Year 4), COLAs will be based on the increased benefit amount.

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all employee contributions are exhausted, all benefits cease. Any remaining balance will be paid to:

(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

option will have their monthly retirement allowance actuarially reduced to offset the cost of annual adjustment.

(5) Benefit increases when survivor predeceases retiree (pop-up provision).

(a) This subsection applies to members retiring on or after January 1, 1996, who select a benefit option with a survivor feature (Option Two, Three, or Four).

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Pop-up recalculation examples.

(6) Any retiree who retired before January 1, 1996, and who elected to receive a benefit option with a survivor feature under subsection (2) of this section is entitled to receive a retirement allowance adjustment if the retiree meets the following conditions:

(a) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(b) The retiree provides to the department proper proof of the designated beneficiary's death. The retiree is not required to apply for the increased benefit provided by this subsection.

The adjusted retirement allowance will be effective on July 1, 1998, or the first of the month following the date of death of the designated beneficiary, whichever comes last.

The adjustment is computed as described in RCW 41.40.188 (3)(c) for Plan 1 retirees or RCW 41.40.660 (3)(c) for Plan 2 retirees.

(7) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

(8) **Postretirement benefit options:**

(a) **Postretirement marriage option.** Members who select the standard allowance (Option One) at the time of retirement and marry after retirement may subsequently select a survivor option with their new spouse as survivor beneficiary, provided that:

(i) The retiree's monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation;

(ii) The selection is made either:

(A) During a one year window, on or after the date of the first anniversary and before the second anniversary of the postretirement marriage; or

(B) Before June 1, 2002, if the postretirement marriage occurred before June 1, 2001;

(iii) The retiree provides a marriage certificate as proof of the postretirement marriage and provides proof of the birth date of the new spouse; and

(iv) A member may exercise this option one time only.

(b) **Removal of a nonspouse survivor option.** Members who selected a nonspouse as survivor beneficiary at the time of retirement may remove that survivor designation and have the benefit adjusted to a standard allowance. A member may exercise this option one time only.

(c) Selection (a) or (b) of this subsection will become effective the first of the month following the department's receipt of the required paperwork.) Upon retirement for service under RCW 41.40.180, 41.40.630, or 41.40.820, or for disability under RCW 41.40.210, 41.40.230, 41.40.670, or 41.40.825, you must choose to have the defined benefit portion of your retirement allowance paid to you by one of the options described in this section. If you are a Plan 1 member, you may also select an optional supplemental cost of living adjustment (COLA).

(1) Which option will pay my beneficiary a monthly allowance after my death? Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) What are my benefit options?

(a) Option one: Standard allowance (no survivor feature). The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death.

(b) Option two: Joint and whole allowance. The department will pay you a reduced monthly retirement allow-

ance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) Option three: Joint and one-half allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) Option four: Joint and two-thirds allowance (available to members retiring on or after January 1, 1996). The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) Do I need my spouse's consent on the option I choose? If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.40.188, 41.40.660 and 41.40.845. If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) Can a dissolution order require that a former spouse be designated as a survivor beneficiary? Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) What is the supplemental COLA option for Plan 1 members? If you are a Plan 1 member, in addition to choosing a retirement benefit option described in subsection (2) of this section, you may choose to receive a supplemental annual COLA. If you select this option, your monthly retirement allowance will be actuarially reduced to offset the cost of this benefit.

(6) What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do? Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death.

(a) Members who retired on or after January 1, 1996. Your increased benefit will be:

(i) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(ii) Any COLAs you received prior to your survivor beneficiary's death, based on your original option selection.

Example:

Agnes retires from PERS Plan 2 in 1996. She chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2001. Agnes' monthly

allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor		\$ Increase
		Option plus COLAs	COLA incr. (3% max)	
1996	2,000.00	1,750.00		0.00
1997		1,750.00	.02	35.00
1998		1,785.00	.03	53.55
1999		1,838.55	.025	45.96
2000		1,884.51	.03	56.54
2001	2,000.00	1,941.05	=	=
			Total COLA's	191.05

Original Monthly Allowance	+ Total COLA's	= New Monthly Allowance
\$2000	+ \$191.05	= \$2,191.05*

* In the future, Agnes' COLA will be based on her increased monthly allowance.

(b) Members who retire before January 1, 1996. Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.40.188(3) (Plan 1) or RCW 41.40.660(3) (Plan 2).

(7) May I change my benefit option after retirement? Your choice of a benefit option is irrevocable with the following three exceptions:

(a) Return to membership. If you retire and then return to membership for at least two years of uninterrupted service, you may choose a different retirement option upon your subsequent retirement. See RCW 41.40.037.

(b) Postretirement marriage option. If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) Removal of a nonspouse survivor option. If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(8) Who will receive the balance of my accumulated contributions, if any, after my death?

(a) Plan 1 and 2 members:

(i) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement

allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(B) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(C) If not paid according to (a)(i)(A) or (B) of this subsection, then to your estate.

(ii) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(B) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(C) If not paid according to (a)(ii)(A) or (B) of this subsection, then to your survivor beneficiary's estate.

(b) Plan 3 members: The defined benefit stops upon your death or upon the death of your survivor beneficiary, if applicable. As a Plan 3 member, you do not contribute to the defined benefit portion of your retirement allowance. The defined contribution portion of your benefit will be distributed according to WAC 415-111-310.

(9) For more information, see RCW 41.40.188 (Plan 1), RCW 41.40.660 (Plan 2) and RCW 41.40.845 (Plan 3).

NEW SECTION

WAC 415-110-610 What are my retirement benefit options? Upon retirement for service under RCW 41.35.420 or 41.35.680, or for disability under RCW 41.35.440 or 41.35.690, you must choose to have the defined benefit portion of your retirement allowance paid to you by one of the options described in this section.

(1) Which option will pay my beneficiary a monthly allowance after my death? Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) What are my benefit options?

(a) Option one: Standard allowance (no survivor feature). The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly retirement allowance will cease upon your death.

(b) Option two: Joint and whole allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the depart-

ment will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) **Option four: Joint and two-thirds allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) **Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.35.220. If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death. Your increased monthly allowance will be:

(a) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(b) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

Example:

Agnes retires from SERS Plan 2 in 2006. Agnes chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2011. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2006	2,000.00	1,750.00		0.00
2007		1,750.00	.02	35.00

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2008		1,785.00	.03	53.55
2009		1,838.55	.025	45.96
2010		1,884.51	.03	56.54
2011	2,000.00	1,941.05	—	—

			Total COLA's	191.05
Original Option One Monthly Allowance	+ Total COLA's	= New Monthly Allowance		
\$2000	+ \$191.05	= \$2,191.05*		

* In the future, Agnes' COLAs will be based on her increased monthly allowance.

(6) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership for at least two years of uninterrupted service, you may choose a different retirement option upon your subsequent retirement. See RCW 41.35.060.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-01-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) **Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) **Plan 2 members:**

(i) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(B) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(C) If not paid according to (a)(i)(A) or (B) of this subsection, then to your estate.

(ii) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of

the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(B) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(C) If not paid according to (a)(ii)(A) or (B) of this subsection, then to your survivor beneficiary's estate.

(b) **Plan 3 members:** The defined benefit stops upon your death or upon the death of your survivor beneficiary, if applicable. As a Plan 3 member, you do not contribute to the defined benefit portion of your retirement allowance. The defined contribution portion of your benefit will be distributed according to WAC 415-111-310.

(8) For more information, see RCW 41.35.220.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-110-326 Retirement benefit options.

NEW SECTION

WAC 415-112-504 What are the benefit options for Plan 1 members? Upon retirement from Plan 1 for service under RCW 41.32.480 or disability under RCW 41.32.550 (1)(c), you must choose to have your retirement allowance paid to you by one of the options described in this section. You may also select an optional supplemental cost-of-living (COLA) adjustment.

(1) **May I withdraw any of my contributions?** You may withdraw some or all of your accumulated contributions as follows:

(a) If you retire according to the provisions of RCW 41.32.498, you may withdraw some or all of your accumulated contributions at the time of retirement. Your monthly retirement allowance will be actuarially reduced according to the amount you withdraw.

(b) If you terminate service due to a disability under the conditions of RCW 41.32.550 (1)(a), you may withdraw all your accumulated contributions in a lump sum payment. You will receive no monthly retirement allowance.

(2) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (3)(c) through (e) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(3) **What are my benefit options?**

(a) **Maximum benefit allowance (no survivor feature).** The department will pay you the maximum benefit allowed by statute. Under this option you will receive a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death, and any remaining balance of accumulated contributions will be:

(i) Retained by the retirement fund if you retired for service under RCW 41.32.497 or 41.32.498; or

(ii) Paid according to subsection (9) of this section if you retired because of disability and were receiving a monthly retirement allowance under RCW 41.32.550 (1)(c).

(b) **Option one: Standard allowance for service retirement (no survivor feature).** The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death, and any remaining balance of accumulated contributions will be paid according to subsection (9) of this section.

(i) This benefit option has a lower monthly allowance than the **maximum benefit allowance** in (a) of this subsection because, with this option, any remaining accumulated contributions will be paid to your beneficiaries upon your death.

(ii) If you are retiring because of disability under RCW 41.32.550 (1)(c), you will not benefit from this option because your beneficiaries will receive any remaining accumulated contributions under the maximum benefit allowance in (a) of this subsection.

(c) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(d) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(e) **Option four: Joint and two-thirds allowance** (available to members retiring on or after January 1, 1996). The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(4) **Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.32.530(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (5) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(5) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A

dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(6) **What is the supplemental COLA option?** In addition to choosing a retirement benefit option described in subsection (3) of this section, you may choose a supplemental annual COLA. If you select this option, your monthly retirement allowance will be actuarially reduced to offset the cost of this benefit.

(7) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death.

(a) **Members who retire on or after January 1, 1996:** Your increased monthly allowance will be:

(i) The amount you would have received had you chosen the maximum benefit at the time of retirement;

(ii) Minus any reduction in the maximum allowance resulting from a withdrawal of contributions;

(iii) Plus any COLAs you received prior to your survivor beneficiary's death, based on your original option selection.

Example:

Lucinda retires from TRS Plan 1 in 1996. Lucinda withdraws some of her contributions, which actuarially reduces her maximum monthly allowance from \$2,000 to \$1,963.86. She chooses a benefit option with a survivor feature, and names Garth, her husband, as her survivor beneficiary. As a result, Lucinda's monthly allowance is further reduced from \$1,963.86 to \$1,846.03. Garth dies in January 2001. Lucinda's monthly allowance will increase to \$1,963.86, the amount she would have received had she chosen the maximum benefit option (after reduction for her withdrawals). The total amount of the COLAs she received (based on her prior monthly allowance) will be added to the \$1,963.86.

(b) **Members who retired before January 1, 1996:** Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.32.530(3).

(8) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement. See RCW 41.32.044.

(b) **Postretirement marriage option.** If you select the maximum benefit option or the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(9) **Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the annuity payments paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid according to this subsection.

(i) Except as provided in (a)(ii) of this subsection, any remaining balance will be paid to the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you retired for service and chose the maximum benefit option, any remaining balance will be retained by the retirement fund.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid to the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(10) For more information, see RCW 41.32.530 and 41.32.550.

NEW SECTION

WAC 415-112-505 What are the benefit options for Plan 2 and 3 members? Upon retirement for service under RCW 41.32.765 or 41.32.875, or disability under RCW 415-112-790 or 415-112-880, you must choose to have the defined benefit portion of your retirement allowance paid to you by one of the options described in this section.

(1) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (2)(c) through (e) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) **What are my benefit options?**

(a) **Option one: Standard allowance for service retirement (no survivor feature).** The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death.

(b) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the depart-

ment will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) **Option four: Joint and two-thirds allowance** (available to members retiring on or after January 1, 1996). The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) **Do I need my spouse's consent on the option I choose?** If you are married, you must submit your spouse's notarized signature indicating consent to the retirement option you selected. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.32.785(2) and 41.32.851(2). If your survivor beneficiary has been designated by a dissolution order under RCW 41.50.790, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death.

(a) **Members who retire on or after January 1, 1996:** Your increased monthly allowance will be:

- (i) The amount you would have received had you chosen the standard allowance option; plus
- (ii) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

Example:

Agnes retires from TRS Plan 2 in 1996. She chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2001. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
1996	2,000.00	1,750.00		0.00
1997		1,750.00	.02	35.00
1998		1,785.00	.03	53.55
1999		1,838.55	.025	45.96
2000		1,884.51	.03	56.54
2001	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Monthly Allowance \$2000		+ Total COLA's + \$191.05		= New Monthly Allowance = \$2,191.05*

* In the future, Agnes' COLA will be based on her increased monthly allowance.

(b) **Members who retired before January 1, 1996:** Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.32.785(3).

(6) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement. See RCW 41.32.044.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

- (i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;
- (ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;
- (iii) You provide a copy of your certified marriage certificate to the department;
- (iv) You provide proof of your current spouse's birth date; and
- (v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) **Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) **Plan 2:**

(i) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(B) If you have not designated a beneficiary, or if your designated beneficiary is no longer living, then to your surviving spouse.

(C) If not paid according to (a)(i)(A) or (B) of this subsection, then to your estate.

(ii) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(B) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living, then to your survivor beneficiary's spouse.

(C) If not paid according to (a)(ii)(A) or (B) of this subsection, then to your survivor beneficiary's estate.

(b) **Plan 3:** The defined benefit stops upon your death or upon the death of your survivor beneficiary, if applicable. As a Plan 3 member, you do not contribute to the defined benefit portion of your retirement allowance. The defined contribution portion of your benefit will be distributed according to WAC 415-111-310.

(8) For more information, see RCW 41.32.785 and 41.32.790 (Plan 2) and RCW 41.32.851 (Plan 3).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-112-727 Retirement benefit options.

**WSR 05-23-066
PERMANENT RULES
SOUTHWEST
CLEAN AIR AGENCY**

[Filed November 15, 2005, 8:53 a.m., effective December 16, 2005]

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

Purpose: SWCAA 400-045 Permit Application for Non-road Engines, the proposed changes adjust permit application fees to provide more funding in support of agency work to process the affected applications.

SWCAA 400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants, the proposed changes update adoption reference dates and incorporate new federal regulations contained in 40 C.F.R. Parts 63 and 65.

SWCAA 400-099 Per Capita Fees, the proposed changes adjust the "per capita" assessment rate to provide additional funding for the agency.

SWCAA 400-100 Registration Requirements, the proposed changes adjust annual registration fees for air pollution sources to provide additional funding for the agency.

SWCAA 400-109 Air Discharge Permit Applications, the proposed changes adjust permit application fees to provide more funding in support of agency work to process the affected applications.

SWCAA 400-115 Standards of Performance for New Sources, the proposed changes update adoption reference

dates and incorporate new federal regulations contained in 40 C.F.R. Part 60.

Citation of Existing Rules Affected by this Order: Amending SWCAA 400-045, [400]-075, [400]-099, [400]-100, [400]-109, and [400]-115.

Statutory Authority for Adoption: RCW 70.94.141.

Adopted under notice filed as WSR 05-17-131 on August 19, 2005.

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: November 3, 2005.

Robert D. Elliott
Executive 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 05-24 issue of the Register.

**WSR 05-23-069
PERMANENT RULES
COMMISSION ON
JUDICIAL CONDUCT**

[Order 05-02—Filed November 15, 2005, 1:13 p.m., effective December 16, 2005]

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

Purpose: To amend existing rules of procedure, chapter 292-09 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 292-09-140.

Statutory Authority for Adoption: Art. IV, Section 31, Washington State Constitution; RCW 42.52.370.

Other Authority: Chapter 2.64 RCW.

Adopted under notice filed as WSR 05-16-100 on August 2, 2005.

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 1, Repealed 0.

Date Adopted: October 4, 2005.

J. Reiko Callner
Executive Director

AMENDATORY SECTION (Amending Order 95-01, filed 2/8/95, effective 3/11/95)

WAC 292-09-140 Documents—Filing. Any document filed with the commission under the provisions of the Administrative Procedure Act, chapter 34.05 RCW; model rules of procedure, chapter 10-08 WAC; and this chapter shall be filed with the Commission on Judicial Conduct, ((908 5th Avenue S.E.,)) 210 11th Avenue SW, #400, Olympia, WA 98504 or P.O. Box 1817, Olympia, WA 98507.

Unless otherwise required by law, filing of a document with the commission shall be made personally, by first class mail, by certified or registered mail, by commercial parcel delivery company, or by facsimile and same-day mailing or original showing same-day postmark. Filing shall occur within the period of time specified for filing by statute, rule, or order.

WSR 05-23-081
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed November 15, 2005, 4:29 p.m., effective January 1, 2006]

Effective Date of Rule: January 1, 2006.

Purpose: The department is amending WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food?, to describe all deemed requirements and verifications when a household is "categorically eligible" (CE) under federal rule at 7 C.F.R. 273.2.

Specifically, information pertaining to deemed residency requirements and verification requirements for sponsor information and Social Security number are included in the rule.

Citation of Existing Rules Affected by this Order: Amending WAC 388-414-0001.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Adopted under notice filed as WSR 05-20-053 on September 30, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, 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 1, Repealed 0.

Date Adopted: November 9, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-14-038, filed 6/29/04, effective 8/1/04)

WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food? (1) What is ((~~"categorically eligible"~~)) "categorically eligible" (CE)?

(a) Being ((~~Categorically eligible~~)) categorically eligible (CE) means that you have already met requirements for ((~~a~~)) the program. If you are CE, you do not have to meet every program requirement to be eligible for Basic Food.

(b) If your assistance unit (AU) is CE, you automatically meet the following requirements for Basic Food:

(i) Residency under WAC 388-468-0005;

(ii) Countable resource limit under WAC 388-470-0005;

((~~iii~~)) (iii) Maximum gross monthly income under WAC 388-478-0060; and

((~~iii~~)) (iv) Maximum net monthly income under WAC 388-478-0060.

((~~b~~)) (c) If your AU is CE and the information is available from another program, you do not need to provide the following for Basic Food:

(i) Social Security Number information under WAC 388-476-0005; and

(ii) Sponsored alien information under WAC 388-450-0155.

(d) Being CE does not mean that your AU is guaranteed to get Basic Food benefits. If your AU is CE:

(i) You must still meet the other Basic Food program requirements under WAC 388-400-0040; and

(ii) If you meet the other program requirements, we must budget your AU's income to determine the amount of benefits your AU will receive.

(2) **Who is categorically eligible for Basic Food?**

Your Basic Food AU is CE when:

(a) **Every member** of your AU gets either general assistance (GA), Alcohol and Drug Abuse Treatment Support Act (ADATSA), or Supplemental Security Income (SSI) cash benefits on their own behalf;

(b) Any member of your AU gets or is authorized to get payments from the following programs because we have determined that the entire AU benefits from someone receiving the assistance:

(i) Temporary assistance for needy families (TANF) cash assistance;

(ii) State family assistance (SFA); or

(iii) Diversion cash assistance (DCA). You are CE for the month you receive DCA and the three following months

as long as you have one adult relative caretaker with a dependent child in the Basic Food AU.

(c) Your AU's income that we don't exclude under WAC 388-450-0015 is not over the maximum gross monthly income under WAC 388-478-0060. If your income is not over the gross monthly income limit, we provide your AU information about department programs and referral to resources in the community.

(3) Who is not CE even if my AU meets the above criteria?

(a) Even if your AU is CE, members of your AU are not eligible for Basic Food if they:

(i) Are not eligible because of their alien or student status;

(ii) Were disqualified from Basic Food under WAC 388-444-0055 for failing work requirements;

(iii) Are not eligible for failing to provide or apply for a Social Security number;

(iv) Receive SSI in a cash-out state (state where SSI payments are increased to include the value of the client's food stamp allotment); or

(v) Live in an institution not eligible for Basic Food under WAC 388-408-0040.

(b) If a person in your AU is not eligible for Basic Food, we do not include them as an **eligible member** of your CE AU.

(c) Your AU is not CE if:

(i) Your AU is not eligible because of striker requirements under WAC 388-480-0001;

(ii) Your AU is ineligible for knowingly transferring countable resources in order to qualify for benefits under WAC 388-488-0010;

(iii) Your AU refused to cooperate in providing information that is needed to determine your eligibility;

(iv) The head of household for your AU failed to meet work requirements; or

(v) Anyone in your AU is disqualified because of an intentional program violation under WAC 388-446-0015.

WSR 05-23-082

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 15, 2005, 4:31 p.m., effective January 1, 2006]

Effective Date of Rule: January 1, 2006.

Purpose: To amend WAC 388-446-0015 Intentional program violation (IPV) and disqualification hearings for food assistance, in order to remove language inconsistent with federal requirements under 7 C.F.R. 273.16 and incorporate trafficking into the definition; also to remove obsolete WAC and procedure references and update language.

Citation of Existing Rules Affected by this Order: Amending WAC 388-446-0015.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Other Authority: RCW 9.91.142.

Adopted under notice filed as WSR 05-20-054 on September 30, 2005.

Changes Other than Editing from Proposed to Adopted Version: Clarified language in subsection (9) that the department must establish an IPV with "clear and convincing" evidence to reflect the recognized legal parlance of the required standard necessary for establishing an IPV per federal rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, 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 1, Repealed 0.

Date Adopted: November 9, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-446-0015 Intentional program violation (IPV) and disqualification hearings for ~~((food assistance))~~ Basic Food.

(1) An intentional program violation (IPV) is defined as an act in which a person intentionally:

(a) Makes a false or misleading statement;

(b) Misrepresents, conceals or withholds facts; or

(c) Acts in violation of the Food Stamp Act, the Food Stamp Program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, trafficking, or possession of food (~~(stamp coupons or FCAs))~~ benefits.

(2) Basic Food (~~(assistance))~~ clients suspected of committing an ~~((+))IPV((+))~~ are subject to referral for an administrative disqualification hearing, if:

(a) The suspected IPV causes an over issuance of four hundred fifty dollars or more; ~~((and))~~ or

(b) The suspected IPV is due to the trafficking of food benefits; and

~~((c))~~ The ~~((administrative proceedings will not jeopardize))~~ person has not been referred for criminal proceedings; and

~~((e))~~ (d) The person resides in Washington state, at the time of the referral; or

~~((f))~~ (e) The person resides outside Washington state, but is within one hour's reasonable drive to a CSO.

(3) An administrative disqualification hearing (ADH) is a formal hearing to determine if a person committed an IPV. ADHs are governed by the rules found in chapter ~~((388-08))~~ 388-02 WAC. However, rules in this section are the overriding authority if there is a conflict.

(4) A client who commits one or more IPV's and is suspected of committing another, is referred for an ADH when the act of suspected violation occurred:

(a) After the department mailed the disqualification notice to the client for the most recent IPV; or

(b) After ~~((an order was entered in))~~ criminal proceedings for the most recent IPV are concluded.

(5) A person suspected of IPV is entitled to receive notice of an ADH at least thirty days in advance of the hearing date. The notice is sent by certified mail, or provided to the client by personal service and will contain the following:

(a) The date, time, and place of the hearing;

(b) The charges against the individual;

(c) A summary of the evidence, and how and where the evidence can be examined;

(d) A warning that a decision will be based solely on evidence provided by the department, if the individual fails to appear at the hearing;

(e) A statement that the individual has ten days from the date of the scheduled hearing to show good cause for failure to appear at the hearing and to request rescheduling;

(f) A warning that a determination of IPV will result in a disqualification period; and

(g) A statement that if a telephone hearing is scheduled, the individual can request an in-person hearing by filing a request with the administrative law judge one week or more prior to the date of the hearing.

(6) The person or a representative shall have the right to one continuance of up to thirty days if a request is filed ten days or more prior to the hearing date.

(7) The hearing will be conducted and a decision rendered even if the person or representative fail to appear, unless within ten days from the date of the scheduled hearing:

(a) The person can show good cause for failing to appear; and

(b) The person or representative requests the hearing be re-instated.

(8) A scheduled telephone hearing may be changed to an in-person hearing if requested one week or more in advance. If requested less than one week in advance the person must show good cause for the requested change.

(9) The ALJ issues a ~~((preliminary))~~ final decision ~~((based on evidence presented by))~~ as specified in WAC 388-02-0215(5) and WAC 388-02-0527. The decision determines whether the department ~~((establishing))~~ establishes with clear and convincing evidence that the person committed and intended to commit an IPV. ~~((The department and the client each have the right to request a review of the ALJ's decision by writing to the department's board of appeals as specified in WAC 388-08-464-))~~

(10) ~~((A final decision of the disqualification hearing is mailed by the department's board of appeals))~~ The department and the client each have the right to request a reconsideration of the decision as specified in WAC 388-02-0610 through 388-02-0635. The final order or the reconsideration decision is the final agency decision.

(11) A client's disqualification is not implemented and benefits continue at the current amount when:

(a) The client can show good cause for not attending the hearing within thirty days from the date the disqualification notice was mailed; and

(b) An administrative law judge determines the client had good cause; or

(c) The client requests reconsideration or files a petition for judicial review to appeal the disqualification as specified in WAC 388-02-0530 (1) or (4).

~~((an overissuance))~~ a regular hearing can be combined when the cause for both hearings is related. ((The hearing procedures and notice requirements are the same as for administrative disqualification hearings.))

WSR 05-23-088

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed November 16, 2005, 4:03 p.m., effective December 17, 2005]

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

Purpose: To allow vehicle manufacturers to use their manufacturer's license plates to test vehicles.

Statutory Authority for Adoption: RCW 46.70.160.

Adopted under notice filed as WSR 05-13-120 on June 20, 2005.

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; and 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 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: August 2, 2005.

Daniel Devoe
Administrator

AMENDATORY SECTION (Amending WSR 04-16-090, filed 8/3/04, effective 9/3/04)

WAC 308-66-160 Dealer's and manufacturer's license plates. (1) When dealer's plates are used on any vehicle being demonstrated to a prospective customer, it is not necessary that the dealer or a member of his firm accompany the prospective customer except as provided in RCW 46.70.090 (7)(c). Prospective customers, when not accompanied by a dealer or member of his firm, must be issued a demonstration permit by the dealer authorizing them to operate the vehicle for a period not to exceed seventy-two hours for the purpose of demonstration and possible purchase.

(2) When a dealer receives a vehicle bearing foreign license plates, such plates must be covered by the dealer's plates while that vehicle is being demonstrated. Upon the sale of the vehicle, the foreign plates shall be removed and destroyed by the dealer prior to the delivery of the vehicle. When foreign-plated vehicles are sold to residents of a state whose plate is so displayed on the vehicle and the purchaser returns the vehicle immediately to his home state for use there and not in Washington, the dealer may deliver the vehicle with foreign plates attached if either one of two conditions is also met. The conditions are:

(a) The purchaser must sign a nonresident affidavit to apply to their home state's vehicle licensing authority to register the vehicle in their own name, or

(b) The purchaser must have obtained a trip permit to move the vehicle from the dealer's place of business to the purchaser's own state.

(3) A dealer, corporate officer, member of a limited liability company; or spouse of the dealer, corporate officer, or member of a limited liability company; or an employee of a dealer must carry a vehicle dealer identification card when operating any vehicle bearing dealer plates.

(4) Dealer plates may not be used on any vehicle belonging to a member of the dealer's family.

(5) Dealer plates may not be used on any vehicle owned by the dealer if such vehicle is used exclusively by members of the dealer's family.

(6) Vehicles bearing dealer's plates may not be loaned to the dealer's service customers.

(7) Dealers are required to provide accurate records reflecting the use of dealer plates.

(8) Pursuant to RCW 46.70.090, testing vehicles for repair is limited to testing for a preexisting, identifiable problem known to the vehicle dealer or manufacturer before the testing is to begin. In addition, vehicle manufacturers may test vehicles for purposes of product evaluation/performance and problem identification, as long as loads are within the legal limits, no commercial hauling is involved, and a company employee with identification is driving the vehicle.

WSR 05-23-092

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed November 16, 2005, 4:31 p.m., effective December 17, 2005]

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

Purpose: This rule explains the exemptions from leasehold excise tax provided by RCW 82.29A.130, 82.29A.132, 82.29A.134, and 82.29A.136. The rule has been revised to incorporate two additional exemptions from the leasehold excise tax that were passed by the 2005 legislature. The first exemption is for municipally-owned historic sites (chapter 170, Laws of 2005), and the second is for leasehold interests in certain amphitheatres (chapter 514, Laws of 2005).

Citation of Existing Rules Affected by this Order: Amending WAC 458-29A-400 Leasehold excise tax—Exemptions.

Statutory Authority for Adoption: RCW 82.29A.140.

Adopted under notice filed as WSR 05-18-011 on August 25, 2005.

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 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: November 16, 2005.

Janis P. Bianchi, Manager
Interpretations and
Technical Advice Unit

AMENDATORY SECTION (Amending WSR 02-18-036, filed 8/26/02, effective 9/26/02)

WAC 458-29A-400 Leasehold excise tax—Exemptions. (1) **Introduction.** This rule explains the exemptions from leasehold excise tax provided by RCW 82.29A.130, 82.29A.132, 82.29A.134, and 82.29A.136. To be exempt from the leasehold excise tax, the property subject to the leasehold interest must be used exclusively for the purposes for which the exemption is granted.

(2) **Operating properties of a public utility.** All leasehold interests that are part of the operating properties of a public utility are exempt from leasehold excise tax if the leasehold interest is assessed and taxed as part of the operating property of a public utility under chapter 84.12 RCW.

For example, tracks leased to a railroad company at the Port of Seaside are exempt from leasehold excise tax because the railroad is a public utility assessed and taxed under chapter 84.12 RCW and the tracks are part of the railroad's operating properties.

(3) **Student housing at public and nonprofit schools and colleges.** All leasehold interests in facilities owned or used by a school, college, or university which leasehold provides housing to students are exempt from leasehold excise tax if the student housing is exempt from property tax under RCW 84.36.010 and 84.36.050.

For example, the leasehold interest associated with a building used as a dormitory for Public University students is exempt from the leasehold excise tax.

(4) **Subsidized housing.** All leasehold interests of subsidized housing are exempt from leasehold excise tax if the property is owned in fee simple by the United States, the state of Washington or any of its political subdivisions, and residents of the housing are subject to specific income qualification requirements.

For example, a leasehold interest in an apartment house that is subsidized by the United States Department of Hous-

ing and Urban Development is exempt from leasehold excise tax if the property is owned by the state of Washington and residents are subject to income qualification requirements.

(5) **Nonprofit fair associations.** All leasehold interests used for fair purposes of a nonprofit fair association are exempt from leasehold excise tax if the fair association sponsors or conducts a fair or fairs supported by revenues collected under RCW 67.16.100 and allocated by the director of the department of agriculture. The property must be owned in fee simple by the United States, the state of Washington or any of its political subdivisions. However, if a nonprofit association subleases exempt property to a third party, the sublease is a taxable leasehold interest.

For example, a leasehold interest held by the Local Nonprofit Fair Association is considered exempt from leasehold excise tax. However, if buildings on the fairgrounds are rented to private parties for storage during the winter, these rentals may be subject to the leasehold excise tax.

(6) **Public employee housing.** All leasehold interests in public property used as a residence by an employee of the public owner are exempt from leasehold excise tax if the employee is required to live on the public property as a condition of his or her employment. The "condition of employment" requirement is met only when the employee is required to accept the lodging in order to enable the employee to properly perform the duties of his or her employment. However, the "condition of employment" requirement can be met even if the employer does not compel an employee to reside in a publicly owned residence.

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) A park ranger employed by the National Park Service, an agency of the United States government, resides in a house furnished by the agency at a national park. The ranger is required to be on call twenty-four hours a day to respond to requests for assistance from park visitors staying at an adjacent overnight campground. The use of the house is exempt from leasehold excise tax because the lodging enables the ranger to properly perform her duties.

(b) An employee of the Washington department of fish and wildlife resides in a house furnished by the agency at a fish hatchery although, under the terms of a collective bargaining agreement, the agency may not compel the employee to live in the residence as a condition of employment. In exchange for receiving use of the housing provided by the agency, the employee is required to perform additional duties, including regularly monitoring certain equipment at the hatchery during nights and on weekends and escorting public visitors on tours of the hatchery on weekends. The use of the house is exempt from leasehold excise tax because the lodging enables the employee to properly perform the duties of his employment. The use is exempt even though the employee would continue to be employed by the agency if the additional duties were not performed and even though state employees of an equal job classification are not required to perform the additional duties.

(c) A professor employed by State University is given the choice of residing in university-owned campus housing

free of charge or of residing elsewhere and receiving a cash allowance in addition to her regular salary. If she elects to reside in the campus housing free of charge, the value of the lodging furnished to the professor would be subject to leasehold excise tax because her residence on campus is not required for her to perform properly the duties of her employment.

(7) **Interests held by enrolled Indians.** Leasehold interests held by enrolled Indians are exempt from leasehold excise tax if the lands are owned or held by any Indian or Indian tribe, and the fee ownership of the land is vested in or held in trust by the United States, unless the leasehold interests are subleased to a lessee which would not qualify under chapter 82.29A RCW, RCW 84.36.451 and 84.40.175 and the tax on the lessee is not preempted due to the balancing test (see WAC 458-20-192).

Any leasehold interest held by an enrolled Indian or a tribe, where the leasehold is located within the boundaries of an Indian reservation, on trust land, on Indian country, or is associated with the treaty fishery or some other treaty right, is not subject to leasehold excise tax. For example, if an enrolled member of the Puyallup Tribe leases port land at which the member keeps his or her boat, and the boat is used in a treaty fishery, the leasehold interest is exempt from the leasehold tax. For more information on excise tax issues related to enrolled Indians, see WAC 458-20-192 (Indians—Indian country).

(8) **Leases on Indian lands to non-Indians.** Leasehold interests held by non-Indians (not otherwise exempt from tax due to the application of the balancing test described in WAC 458-20-192) in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or subject to a restriction against alienation imposed by the United States are exempt from leasehold excise tax if the amount of contract rent paid is greater than or equal to ninety percent of fair market rental value. In determining whether the contract rent of such lands meets the required level of ninety percent of market value, the department will use the same criteria used to establish taxable rent under RCW 82.29A.020 (2)(b) and WAC 458-29A-200.

For example, Harry leases land held in trust by the United States for the Yakama Nation for the sum of \$900 per month. The fair market value for similar lands used for similar purposes is \$975 per month. The lease is exempt from the leasehold excise tax because Harry pays at least ninety percent of the fair market value for the qualified lands. For more information on the preemption analysis and other tax issues related to Indians, see WAC 458-20-192.

(9) **Annual taxable rent is less than two hundred fifty dollars.** Leasehold interests for which the taxable rent is less than \$250 per year are exempt from leasehold excise tax. For the purposes of this exemption, if the same lessee has a leasehold interest in two or more contiguous parcels of property owned by the same public lessor, the taxable rent for each contiguous parcel will be combined and the combined taxable rent will determine whether the threshold established by this exemption has been met. To be considered contiguous, the parcels must be in closer proximity than merely within the boundaries of one piece of property. When determining the annual leasehold rent, the department will rely upon the

actual substantive agreement between the parties. Rent payable pursuant to successive leases between the same parties for the same property within a twelve-month period will be combined to determine annual rent; however, a single lease for a period of less than one year will not be projected on an annual basis.

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) The yacht club rents property from the Port of Bay City for its clubhouse and moorage. It also rents a parking stall for its commodore. The parking stall is separated from the clubhouse only by a common walkway. The parking stall lease is a part of the clubhouse lease because it is contiguous to the clubhouse, separated only by a necessary walkway.

(b) Ace Flying Club rents hangars, tie downs, and ramps from the Port of Desert City. It has separate leases for several parcels. The hangars are separated from the tie down space by a row of other hangars, each of which is leased to a different party. Common ramps and roadways also separate the club's hangars from its tie-downs. The hangars, because they are adjacent to one another, create a single leasehold interest. The tie downs are a separate taxable leasehold interest because they are not contiguous with the hangars used by Ace Flying Club.

(c) Grace leases a lot from the City of Flora, from which she sells crafts at different times throughout the year. She pays \$50 per month for the lot, and has a separate lease for each season during which she sells. She has one lease from May through September, and a separate lease for the time between Thanksgiving and Christmas, which might run thirty to forty days, depending on the year. The leases will be combined for the purposes of determining the leasehold excise tax. They relate to the same piece of property, for the same activity by the same lessee, and occur within the same year.

(d) Elizabeth owns a Christmas tree farm. Every year she rents a small lot from the Port of Capital City, adjacent to its airport, to sell Christmas trees. She pays \$125 to the port to rent the lot for 6 weeks. It is the only time during the year that she rents the lot. Her lease is exempt from the leasehold excise tax, because it does not exceed \$250 per year in taxable rent.

(10) Leases for a continuous period of less than thirty days. Leasehold interests that provide use and possession of public property for a continuous period of less than thirty days are exempt from leasehold excise tax. In determining the duration of the lease, the department will rely upon the actual agreement and/or practice between the parties. If a single lessee is given successive leases or lease renewals of the same property, the arrangement is considered a continuous use and possession of the property by the same lessee. A leasehold interest does not give use and possession for a period of less than thirty days based solely on the fact that the public lessor has reserved the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(11) Month-to-month leases in residential units to be demolished or removed. Leasehold interests in properties rented for residential purposes on a month-to-month basis

pending destruction or removal for construction of a public highway or public building are exempt from the leasehold excise tax. Thus, if the state or other public entity has acquired private property for purposes of building or expanding a highway, or for the construction of public buildings at an airport, the capitol campus, or some other public facility, and the public entity rents the property for residential purposes on a month-to-month basis pending destruction or removal for construction, these leases do not create taxable leasehold interests. This exemption does not require evidence of imminent removal of the residential units; the term "pending" merely means "while awaiting." The exemption is based upon the purpose for which the public entity holds the units.

For example, State University has obtained capital development funding for the construction of new campus buildings, and has purchased a block of residential property adjacent to campus for the sole purpose of expansion. Jim leases these houses from State University pursuant to a month-to-month rental agreement and rents them to students. Construction of the new buildings is not scheduled to begin for two years. Jim is not subject to the leasehold excise tax, because State University is holding the residential properties for the sole purpose of expanding its facilities, and Jim is leasing them pending their certain, if not imminent, destruction.

(12) Public works contracts. Leasehold interests in publicly owned real or personal property held by a contractor solely for the purpose of a public improvements contract or work to be executed under the public works statutes of Washington state or the United States are exempt from leasehold excise tax. To receive this exemption, the contracting parties must be the public owner of the property and the contractor that performs the work under the public works statutes.

For example, during construction of a second deck on the Nisqually Bridge pursuant to a public works contract between the state of Washington and Tinker Construction, any leasehold interest in real or personal property created for Tinker solely for the purpose of performing the work necessary under the terms of the contract is exempt from leasehold excise tax.

(13) Correctional industries in state adult correctional facilities. Leasehold interests for the use and possession of state adult correctional facilities for the operation of correctional industries under RCW 72.09.100 are exempt from leasehold excise tax.

For example, a profit or nonprofit organization operating and managing a business within a state prison under an agreement between it and the department of corrections is exempt from leasehold excise tax for its use and possession of state property.

(14) Camp facilities for disabled persons. Leasehold interests in a camp facility are exempt from leasehold excise tax if the property is used to provide organized and supervised recreational activities for disabled persons of all ages, and for public recreational purposes, by a nonprofit organization, association, or corporation which would be exempt from property tax under RCW 84.36.030(1) if it owned the property.

For example, a county park with camping facilities leased to a nonprofit charitable organization is exempt from

leasehold excise tax if the nonprofit allows the property to be used by the general public for recreational activities throughout the year, and to be used as a camp for disabled persons for two weeks during the summer.

(15) **Public or entertainment areas of certain baseball stadiums.** Leasehold interests in public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy, located in a county with a population of over one million people, with a seating capacity of over forty thousand, and constructed on or after January 1, 1995, are exempt from leasehold excise tax.

"Public or entertainment areas" for the purposes of this exemption include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public areas, public rest rooms, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or that are used for the production of the entertainment event or other public usage, and any other personal property used for such purposes. "Public or entertainment areas" does not include locker rooms or private offices used exclusively by the lessee.

(16) **Public or entertainment areas of certain football stadiums and exhibition centers.** Leasehold interests in the public or entertainment areas of an open-air stadium suitable for national football league football and for Olympic and world cup soccer, with adjacent exhibition facilities, parking facilities, and other ancillary facilities constructed on or after January 1, 1998, are exempt from leasehold excise tax. For the purpose of this exemption, the term "public and entertainment areas" has the same meaning as set forth in subsection (15) above.

(17) **Public facilities districts.** All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW are exempt from leasehold excise tax.

(18) **State route 16 corridor transportation systems.** All leasehold interests in the state route number 16 corridor transportation systems and facilities constructed and operated under chapter 47.46 RCW are exempt from leasehold excise tax. RCW 82.29A.132.

(19) **Sales/leasebacks by regional transit authorities.** All leasehold interests in property of a regional transit authority or public corporation created under RCW 81.112.320 under an agreement under RCW 81.112.300 are exempt from leasehold excise tax. This exemption is effective July 28, 2000. RCW 82.29A.134.

(20) **Interests consisting of three thousand or more residential and recreational lots.** All leasehold interests consisting of three thousand or more residential and recreational lots that are or may be subleased for residential and recreational purposes are exempt from leasehold excise tax. Any combination of residential and recreational lots totaling at least three thousand satisfies the requirement of this exemption. This exemption is effective January 1, 2002. RCW 82.29A.136.

(21) **Municipally owned historic sites.** All leasehold interests in property that is:

(a) Owned by a municipal corporation;

(b) Listed on any federal or state register of historical sites; and

(c) Wholly contained within a designated national historic reserve under 16 U.S.C. Sec. 461.

(22) **Amphitheaters.** All leasehold interests in the public or entertainment areas of an amphitheater if a private entity is responsible for one hundred percent of the cost of constructing the amphitheater which is not reimbursed by the public owner, both the public owner and the private lessee sponsor events at the facility on a regular basis, the lessee is responsible under the lease or agreement to operate and maintain the facility, and the amphitheater has a seating capacity of over seventeen thousand reserved and general admission seats and is in a county with a population of over three hundred fifty thousand, but less than four hundred twenty-five thousand. For the purposes of this subsection, "public or entertainment areas" include box offices or other ticket sales areas, entrance gates, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas including lawn seating areas and suites, stages, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include office areas used predominately by the lessee.

WSR 05-23-093

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed November 16, 2005, 4:33 p.m., effective December 17, 2005]

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

Purpose: Chapter 458-61 WAC provides tax reporting information to persons who sell real estate in Washington, or who transfer a controlling interest in an entity that owns real estate in this state. The rules explain who is liable for the tax, how and when the tax imposed by chapter 82.45 RCW is paid, which transactions are taxable, what exemptions are available from imposition of the tax, and the record-keeping requirements. The department is revising the rules to update existing information, more clearly and completely explain department practices in administering the tax, and incorporate legislative amendments to chapter 82.45 RCW. The department has consolidated the information from several of the existing rules, and organized the chapter in a more "user friendly" format. The rules adopted are being codified in a new chapter 458-61A WAC, and the rules in chapter 458-61 WAC are being repealed (see below).

The following rules are included in new chapter 458-61A WAC being adopted: WAC 458-61A-100 Real estate

excise tax—Overview, 458-61A-101 Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state, 458-61A-102 Definitions, 458-61A-103 Transfers involving an underlying debt, 458-61A-104 Assignments, 458-61A-105 Mobile and floating home sales, 458-61A-106 Sales of improvements to land, leases, and leases with option, 458-61A-107 Option to purchase, 458-61A-108 Contractor, 458-61A-109 Trading/exchanging property and boundary line adjustments, 458-61A-110 Relocation service—Two-deed process, 458-61A-111 Easements, development rights, water rights, and air rights, 458-61A-112 Mineral rights and mining claims, 458-61A-113 Timber, standing, 458-61A-200 Exemptions and exclusions—Introduction, 458-61A-201 Gifts, 458-61A-202 Inheritance or devise, 458-61A-203 Community property, dissolution of marriage, legal separation, decree of invalidity, 458-61A-204 Tenants in common and joint tenants, 458-61A-205 Government transfers, 458-61A-206 Condemnation proceedings, 458-61A-207 Bankruptcy, 458-61A-208 Foreclosure—Deeds in lieu of foreclosure—Sales pursuant to court order, 458-61A-209 Rescission of sale, 458-61A-210 Irrevocable trusts, 458-61A-211 Mere change in identity or form—Family corporations and partnerships, 458-61A-212 Transfers where gain is not recognized under the Internal Revenue Code, 458-61A-213 IRS "tax deferred" exchange, 458-61A-214 Nominee, 458-61A-215 Clearing or exiting title, and additions to title, 458-61A-216 Mortgage insurers, 458-61A-217 Rerecord, 458-61A-300 Collection and administration—Introduction, 458-61A-301 Payment of tax, collection responsibility, audit responsibility, and tax rulings, 458-61A-302 Disposition of proceeds and affidavit batch transmittal, 458-61A-303 Affidavit, 458-61A-304 Supplemental statements, 458-61A-305 Trade-in credit, and 458-61A-306 Date of sale, interest, and penalties.

Citation of Existing Rules Affected by this Order: Chapter 458-61 WAC is repealed: WAC 458-61-015 General information, 458-61-025 Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state, 458-61-030 Definitions, 458-61-050 Payment of tax—County treasurer as agent for the state, 458-61-060 Disposition of proceeds, 458-61-070 Affidavit batch transmittal, 458-61-080 Affidavit requirements, 458-61-090 Date of sale—Interest and penalty, 458-61-100 Refunds of tax paid, 458-61-120 Evasion penalty, 458-61-130 Department audit responsibility, 458-61-150 Supplemental statements, 458-61-200 Apartments, 458-61-210 Assignments—Purchasers, 458-61-220 Assignments—Sellers, 458-61-225 Assumption of debt, 458-61-230 Bankruptcy, 458-61-235 Boundary line adjustments, 458-61-250 Cemetery lots or graves, 458-61-255 Clearing title, 458-61-290 Contract, 458-61-300 Contractor, 458-61-330 Foreclosure—Deeds in lieu of foreclosure, 458-61-335 Easements, development rights, water rights and air rights, 458-61-340 Community property—Dissolution of marriage/divorce, 458-61-370 Exchanges—Trades, 458-61-374 Exemption—Transfers made "subject to," 458-61-375 Exemption—Mere change in identity or form—Family corporations and partnerships, 458-61-376 Exemption—Transfers where gain is not recognized under the Internal Revenue Code, 458-61-400 Creation, assignment and release of security interests, 458-

61-410 Gifts, 458-61-411 Exemption—Irrevocable trusts, 458-61-412 Exemption—Inheritances, 458-61-420 Government transfers, 458-61-425 Growing crops, 458-61-430 Sale of improvements to land, 458-61-450 Indian (American), transfers to or from, 458-61-470 Irrigation equipment, 458-61-480 IRS "tax deferred" exchange, 458-61-510 Leases, 458-61-520 Mineral rights and mining claims, 458-61-540 Mobile and floating home sales, 458-61-545 Mortgage insurers, 458-61-550 Nominee, 458-61-553 Nonprofit organizations, 458-61-555 Option to purchase, 458-61-590 Rescission of sale, 458-61-600 Relocation service, 458-61-610 Rerecord, 458-61-640 Sheriff's sale, 458-61-650 Tenants in common and joint tenants, 458-61-660 Timber, standing, and 458-61-670 Trade-in credit.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 82.45.150.

Adopted under notice filed as WSR 05-17-025 on August 5, 2005 and WSR 05-17-041 on August 9, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 458-61A-113 Timber, standing, was changed. The rule being adopted includes language substantially the same as the language that was in WAC 458-61-660 Timber, standing. This change was in response to a number of comments expressing concern about the possible effect of proposed WAC 458-61A-113 Timber, standing. Many of those providing comments requested that the department engage in further stakeholder discussions before proceeding with adoption of this rule.

WAC 458-61A-201 Gifts, was changed to provide an additional example to address the issue of gift transfers of rental/commercial property. This example was added in response to the volume of questions the department receives on this subject from county officials and the public.

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 7, Amended 0, Repealed 7.

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 39, Amended 0, Repealed 53.

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 39, Amended 0, Repealed 53.

Date Adopted: November 16, 2005.

Janis P. Bianchi, Manager
Interpretations and
Technical Advice Unit

Chapter 458-61A WAC

REAL ESTATE EXCISE TAX

GENERAL INFORMATION AND TAXABILITY OF TRANSFERS

NEW SECTION

WAC 458-61A-100 Real estate excise tax—Overview. (1) **Introduction.** Chapter 82.45 RCW imposes an excise tax on every sale of real estate in the state of Washington. All sales of real property in this state are subject to the real estate excise tax unless specifically exempted by chapter 82.45 RCW and these rules. The general provisions for the administration of the state's excise taxes contained in chapter 82.32 RCW apply to the real estate excise tax, except as provided in RCW 82.45.150. This chapter provides applicable definitions, describes procedures for payment, collection, and reporting of the tax, explains when penalties and interest are imposed on late payment, describes those transactions exempted from imposition of the tax, and explains the procedures for refunds and appeals.

(2) **Imposition of tax.**

(a) The taxes imposed are due at the time the sale occurs, are the obligation of the seller, and, in most instances, are collected by the county upon presentation of the documents of sale for recording in the public records.

(b) If there is a sale of the controlling interest in an entity that owns real property in this state, the tax is paid to the department at the time the interest is transferred. See WAC 458-61A-101.

(3) **Rate of tax.** The rate of the tax is set forth in RCW 82.45.060. Counties, cities, and towns may impose additional taxes on sales of real property on the same incidences, collection, and reporting methods authorized under chapter 82.45 RCW. See chapter 82.46 RCW.

(4) **Nonprofit organizations.** Transfers to or from an organization exempt from ad valorem property taxes under chapter 84.36 RCW, or from federal income tax, because of the organization's nonprofit or charitable status are nevertheless subject to the real estate excise tax unless specifically exempt under chapter 82.45 RCW or these rules.

(5) **Sales in Indian country.** A sale of real property located in Indian country by an enrolled tribe or tribal member is not subject to real estate excise tax. See WAC 458-20-192 for complete information regarding the taxability of transactions involving Indians and Indian country.

NEW SECTION

WAC 458-61A-101 Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state. (1) **Introduction.** The transfer of a controlling interest in an entity that has an interest in real property in this state is considered a taxable sale of the entity's real property for purposes of the real estate excise tax under chapter 82.45 RCW. This rule explains the application of the tax on those transfers.

(2) **Definitions.** For the purposes of this chapter, the following definitions apply unless the context requires otherwise.

(a) **"Controlling interest"** means:

(i) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

(ii) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

Examples. The following examples, while not exhaustive, illustrate some of the circumstances in which the transfer of an interest in an entity may or may not be taxable. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(A) Able and Baker each own 40% of the voting shares of a corporation, Flyaway, Inc. Charlie, Delta, Echo, and Frank each own 5% voting shares. Charlie acquires Baker's 40% interest, and Delta's and Echo's 5% interests. This is a taxable acquisition because a controlling interest (50% or more) was acquired by Charlie (40% from Baker plus 5% from Delta and 5% from Echo). However, if Charlie, Delta, and Echo were to transfer their shares (totaling 15%) to Able, those transfers would not be taxable. Although Able would own 55% of the corporation, only a 15% interest was transferred and acquired, so the acquisition by Able is not taxable.

(B) Melody LLC consists of a general partner and three limited partners, each possessing a 25% interest. Even though the general partner controls the management and daily operations, a 25% interest is not a controlling interest. If someone were to acquire a 50% or greater interest from any of the existing partners, there would be a taxable acquisition of a controlling interest. If one partner acquires an additional 25% interest from another partner for a total of a 50% interest, no transfer or acquisition of a controlling interest occurs because less than 50% is transferred and acquired.

(C) Anne, Bobby, Chelsea, and David each own 25% of the voting shares of a corporation. The corporation redeems the shares of Bobby, Chelsea, and David. Anne now owns all the outstanding shares of the corporation. A taxable transfer occurred when the corporation redeemed the shares of Bobby, Chelsea, and David.

(D) Andrew owns 75% of the voting shares of a corporation. Andrew transfers all of his stock by 25% portions of the shares in three separate and unrelated transactions to Betsy, Carolyn, and Daniel, who are not acting in concert. A taxable transfer of a controlling interest occurs when Andrew transfers 75% of the voting shares of the corporation, even though no one has subsequently acquired a controlling interest.

(E) Big Corporation has two stockholders, Adrian and Britain. Adrian owns 90 shares of stock (90%) and Britain owns 10 shares of stock (10%). Big Corporation owns 60% of the stock of Little Corporation, which owns real property. Adrian, by virtue of owning 90% of Big Corporation's stock, has a 54% interest in Little Corporation (90% interest in Big multiplied by the 60% interest Big has in Little equals the

54% interest Adrian has in Little). Adrian sells his 90 shares of stock in Big to Britain. Adrian, by selling his 90 shares of Big stock, has transferred a controlling interest (54%) in an entity that owns real property (Little). This transfer is subject to the real estate excise tax.

(F) Assume the same facts as in Example (E) of this subsection, except that Big owns only 50% of Little's stock. Since Adrian has not transferred and Britain has not acquired a controlling interest in Little ($90\% \times 50\% = 45\%$), the real estate excise tax does not apply. If, however, Big had transferred its 50% interest in Little, that would be a transfer of a controlling interest and it would be subject to the real estate excise tax.

(b) The terms "**person**" or "**company**" mean any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state of Washington or any political subdivision thereof, corporation, limited liability company association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, and the United States or any agency or instrumentality thereof.

(c) "**True and fair value**" means market value, which is the amount of money that a willing, but unobliged, buyer would pay a willing, but unobligated, owner for real property, taking into consideration all reasonable, possible uses of the property.

(d) "**Twelve-month period**" is any period of twelve consecutive months and may span two calendar years.

(e) "**Acting in concert**" occurs:

(i) When one or more persons have a relationship with each other such that one person influences or controls the actions of another through common ownership. For example, if a parent corporation and a wholly owned subsidiary each purchase a 25% interest in an entity, the two corporations have acted in concert and acquired a controlling (i.e., at least 50%) interest in the entity.

(ii) Where buyers are not commonly controlled or owned, but the unity of purpose with which they have negotiated and will complete the acquisition of ownership interests, indicates that they are acting together. For example, three separate individuals who decide together to acquire control of a company jointly through separate purchases of 20% interests in the company act in concert when they acquire the interests.

(3) **In general.** In order for the tax to apply when the controlling interest in an entity that owns real property is transferred, the following must have occurred:

(a) The transfer or acquisition of the controlling interest occurred within a twelve-month period;

(b) The controlling interest was transferred in a single transaction or series of transactions by a single person or acquired by a single person or a group of persons acting in concert;

(c) The entity has an interest in real property located in this state;

(d) The transfer is not otherwise exempt under chapters 82.45 RCW and 458-61A WAC; and

(e) The transfer was made for valuable consideration.

(4) **Measure of the tax.** The measure of the tax is the "selling price." For the purpose of this rule, "selling price" means the true and fair value of the real property owned by the entity at the time the controlling interest is transferred.

(a) If the true and fair value of the property cannot reasonably be determined, one of the following methods may be used to determine the true and fair value:

(i) A fair market value appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made pursuant to section 1060 of the Internal Revenue Code of 1986, as amended or renumbered as of January 1, 2005.

(b) If the true and fair value of the property to be valued at the time of the sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained on the county property tax rolls at the time of the sale will be used as the selling price.

(c) **Examples.**

(i) A partnership owns real property and consists of two partners, Amy and Beth. Each has a 50% partnership interest. The true and fair value of the real property owned by the partnership is \$100,000. Amy transfers her 50% interest in the partnership to Beth for valuable consideration. The taxable selling price is the true and fair value of the real property owned by the partnership, or \$100,000.

(ii) A corporation consists of two shareholders, Chris and Dilbert. The assets of the corporation include real property, tangible personal property, and other intangible assets (goodwill, cash, licenses, etc.). An appraisal of the corporation's assets determines that the values of the assets are as follows: \$250,000 for real property; \$130,000 for tangible personal property; and \$55,000 for miscellaneous intangible assets. Chris transfers his 50% interest to Ellie for valuable consideration. The taxable selling price is the true and fair value of the real property owned by the corporation, or \$250,000.

(iii) An LLC owns real property and consists of two members, Frances and George. Each has a 50% LLC interest. Frances transfers her 50% interest to George. In exchange for the transfer, George pays Frances \$100,000. The true and fair value of the real property owned by the LLC is unknown. There is no debt on the real property. A fair market value appraisal is not available. The market value assessment for the property maintained on the county property tax rolls is \$275,000. The taxable selling price is the market value assessment, or \$275,000.

(5) **Persons acting in concert.** The tax applies to acquisitions made by persons acting in concert, as defined in subsection (2)(f) of this section.

(a) Where persons are not commonly controlled or influenced, factors that indicate whether persons are acting in concert include:

(i) A close relation in time of the transfers or acquisitions;

(ii) A small number of purchasers;

(iii) Mutual terms contained in the contracts of sale; and

(iv) Additional agreements to the sales contract that bind the purchasers to a course of action with respect to the transfer or acquisition.

(b) If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, then the persons are not acting in concert, and the acquisitions will be considered separate acquisitions.

(c) **Example.** Able owns 100% of Emerald Corporation, which owns real property. As a group, Baker, Charlie, Delta, and Echo negotiate to acquire all of Able's interest in Emerald. Baker, Charlie, Delta, and Echo each acquire 25% of Able's interest. The contracts of Baker, Charlie, Delta, and Echo are identical and the purchases occur simultaneously. Baker, Charlie, Delta, and Echo also negotiated an agreement binding themselves to a course of action with respect to the acquisition of Emerald and the terms of the shareholders agreement that will govern their relationship as owners of Emerald. Baker, Charlie, Delta, and Echo are acting in concert and their acquisitions from Able are treated as a single acquisition of a controlling interest that is subject to the real estate excise tax.

(6) Date of sale.

(a) When the controlling interest is acquired in one transaction, the actual date control is transferred is the date of sale. Examples of when an interest in an entity is transferred include when payment is received by the seller and the shares of stock are delivered to the buyer, or when payment is received by the seller and partnership documents are signed, etc. However, if the parties enter into an agreement to acquire or transfer a controlling interest over time through a series of transactions, the date of sale is deemed the date of the agreement arranging the transactions. The agreement results in the transfer of both a present interest and a beneficial interest in the entity, the sum of which results in a controlling interest, regardless of whether the first of the successive transactions is more than twelve months prior to the final transaction.

(b) Examples.

(i) Andrew owns 100% of the voting shares of Topaz Corporation. Andrew signs a binding agreement to transfer 51% of his shares in the corporation to Ted. The agreement states that the transfer will occur as follows: 49% of the shares will be transferred on January 1st, and the remaining 2% of the shares will be transferred on February 1st of the following year. Andrew has contractually agreed to sell 51% of the voting shares in Topaz within a twelve-month period, even though the shares will not actually be transferred to Ted until later. The date of sale is the date of the agreement, and REET is due upon the true and fair value of the property as of the date of the agreement.

(ii) Matt acquires a 10% interest in an entity which owns an apartment building under construction worth \$500,000 from Simon on January 30th. On July 30th Matt acquires a 30% interest in the same entity from Mary, but the building is now worth \$900,000. On September 30th Matt acquires a 10% interest in the same entity from Ruth, but the building is now worth \$1,000,000. These are three separate and completely independent transfers. The final transfer allowed Matt to acquire, within twelve months, a controlling interest in an entity that owns real property. September 30th is the date of sale.

To determine the sellers' proportional tax liability in the example above, the series of transactions is viewed as a

whole. Note both the individual and the total interests transferred. Here, Simon and Mary each conveyed 10% interests, while Ruth conveyed a 30% interest, with a total of a 50% interest being conveyed. To determine the liability percentage for each seller, divide the interest each conveyed by the total interest conveyed (Here, Simon and Mary: $10/50 = 20\%$; Ruth: $30/50 = 60\%$). This results in tax liability percentages here for Simon and Mary of 20% each and for Ruth, 60%.

To determine the amount of tax owed, the percentage is applied to the value of the property at the time of conveyance. In the example above, the value of the property to which the percentage applies is dependent on the time of each transfer (i.e., Simon's 20% on the \$500,000; Mary's 60% on the \$900,000; Ruth's 20% on the \$1,000,000).

(7) Tax liability. When there is a transfer or acquisition of a controlling interest in an entity that has an interest in real property, the seller of the interest is generally liable for the tax.

(a) When the seller has not paid the tax by the due date and neither the buyer nor the seller has notified the department of the sale within thirty days of the sale, the buyer is also liable for the tax.

(b) When the buyer has notified the department of the sale within thirty days of the sale, the buyer will not be held personally liable for any tax due.

(8) Reporting requirements. The transfer of a controlling interest in real property must be reported to the department when no instrument is recorded in the official real property records of the county in which the property is located. If the transfer is not taxable due to an exemption, that exemption should be stated on the affidavit.

(a) The sale must be reported by the seller to the department within five days from the date of the sale on the department of revenue affidavit form, DOR Form 84-0001B. The affidavit form must be signed by both the seller and the buyer, or their agent, and must be accompanied by payment of the tax due.

(b) The affidavit form may also be used to disclose the sale, in which case:

(i) It must be signed by the person making the disclosure; and

(ii) It must be accompanied by payment of the tax due only when submitted by a seller reporting a taxable sale.

(c) Any person who intentionally makes a false statement on any return or form required to be filed with the department under this chapter is subject to penalty of perjury.

(d) Examples. The following examples, while not exhaustive, illustrate some of the circumstances in which the transfer of an interest in an entity must be reported to the department. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(i) Simon and Peter each own 40% of the voting shares of a corporation. Paul, Matthew, Mark, and John each own 5% voting shares. Paul acquires Peter's 40% interest, and Matthew's and Mark's 5% interests. This is a taxable acquisition because a controlling interest (50% or more) was acquired by Paul (40% from Peter plus 5% from Matthew and 5% from Mark). This transaction must be reported.

(ii) Assume same facts as in example (d)(i) of this subsection. Paul's attorney advises him that for his protection, Paul should file an affidavit to disclose the sale. Paul files an affidavit to disclose the sale to the department within thirty days of the date of sale. Peter, Matthew, and Mark go on vacation and the affidavit and required tax payment is not sent to the department. The department notifies Peter, Matthew, and Mark of their tax liability, which now includes interest and penalties. Due to Paul's disclosure, Paul is relieved of any personal liability for the tax, interest, or penalties.

(iii) Assume the same facts as in example (d)(i) of this subsection, except Paul only acquires Peter's 40% interest and Matthew's 5% interest. This is not a taxable acquisition because a controlling interest (50% or more) was not acquired by Paul. This transaction does not need to be reported.

(9) **Due date, interest and penalties.** The tax imposed is due and payable immediately on the date of sale. See WAC 458-61A-306 for interest and penalties that may apply.

(10) **Transfers after tax has been paid.** When there is a transfer or acquisition of a controlling interest in an entity and the real estate excise tax is paid on the transfer, and there is a subsequent acquisition of an additional interest in the same entity within the same twelve-month period by a person acting in concert with the previous buyer(s), the subsequent seller is liable for its proportional portion of the tax. After payment by the subsequent seller of its proportional share, the person(s) who previously paid the tax may apply to the department for a refund of the amount overpaid because of the new proportional amount paid as a result of the subsequent transfer or acquisition.

(11) **Exemptions.** Because transfer and acquisition of a controlling interest in an entity that owns real estate in this state is statutorily defined as a "sale" of the real property owned by the entity, the exemptions of chapter 82.45 RCW and this chapter also apply to the sale of a controlling interest.

Examples.

(a) The merger of a wholly owned subsidiary owning real property located in this state with another subsidiary wholly owned by the same parent is a transfer of a controlling interest. However, this transfer may be exempt from taxation on two grounds. First, it may be exempt because it is a mere change in form or identity (see WAC 458-61A-211). Second, it may be exempt if it qualifies under the nonrecognition of gain or loss provisions of the Internal Revenue Code for entity formation, liquidation and dissolution, and reorganization. (See WAC 458-61A-212.)

(b) Taki owns 100% of a corporation. Taki wants her child, Mieko, and corporate manager, Sage, to be co-owners with her in the corporation. Taki makes a gift of 50% of the voting stock to Mieko and sells 33 1/3% to Sage. Although a controlling interest in the corporation has been transferred to and acquired by Mieko, it is not taxed because a gift is an exempt transfer and not considered for purposes of determining whether a controlling interest has transferred. The sale of the 33 1/3% interest to Sage is not a controlling interest, and is not taxed.

(c) Richard owns 75% of the voting stock of a corporation that owns real estate located in this state. Richard

pledges all of his corporate stock to secure a loan with a bank. When Richard defaults on the loan and the bank forecloses on Richard's stock in the corporation, the transfer and acquisition of the controlling interest of the entity is not a taxable transaction because foreclosures of mortgages and other security devices are exempt transfers. (See WAC 458-61A-208.)

NEW SECTION

WAC 458-61A-102 Definitions. For the purposes of chapter 458-61A WAC, the following definitions apply unless the context requires otherwise:

(1) **"Affidavit"** means the real estate excise tax affidavit provided by the department for use by taxpayers in reporting transfers of real property. Both the seller/grantor and the buyer/grantee, or their agents, sign the affidavit under penalty of perjury. The term also includes the form used to report to the department transfers and acquisitions of a controlling interest in an entity owning real property in this state under WAC 458-61A-101.

(2) **"Consideration"** means money or anything of value, either tangible or intangible, paid or delivered, or contracted to be paid or delivered, including performance of services, in return for the transfer of real property. The term includes the amount of any lien, mortgage, contract indebtedness, or other encumbrance, given to secure the purchase price, or any part thereof, or remaining unpaid on the property at the time of sale. For example, Lee purchases a home for \$250,000. He puts down \$50,000, and finances the balance of \$200,000. The full consideration paid for the house is \$250,000.

(a) "Consideration" includes the issue of an ownership interest in any entity in exchange for a transfer of real property to the entity. For example, if Julie transfers title to 20 acres of commercial property to Smith Development, LLC in exchange for a 50% ownership interest in the company, that constitutes consideration for the transfer. In the case of partnerships, consideration includes the increase in the capital account of the partner made as a result of the partner's transfer of real property to the partnership, unless the transfer is otherwise specifically exempt under WAC 458-61A-211 or 458-61A-212.

(b) "Consideration" includes the assumption of an underlying debt on the property by the buyer at the time of transfer. For example, Ben buys a residence, valued at \$300,000, from Liza. Liza was purchasing the property on a real estate contract that has an outstanding balance of \$175,000. Ben gives Liza \$125,000 in cash and he assumes the obligation on the real estate contract, which Liza assigns to him. Real estate excise tax is due on \$300,000, which is the total consideration for the sale.

(c) "Consideration" does not include the amount of any outstanding lien or encumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements. For example, Mel buys residential property for \$300,000. The title is encumbered by a lien for unpaid property taxes in the amount of \$12,000, and a lien for municipal sidewalk improvements in the amount of \$6,000. Although Mel will become liable for those liens in

order to take title to the property, they are not considered part of the purchase price for the purpose of calculating real estate excise tax. The real estate excise tax is due only on the purchase price of \$300,000.

(3) **"Controlling interest"** means:

(a) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

(b) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity.

(4) **"County"** means the county treasurer or its agent.

(5) **"Date of sale"** means the date (normally shown on the instrument of conveyance or sale) that ownership of or title to real property, or control of the controlling interest in an entity that has a beneficial interest in real property, is delivered to the buyer/transferee in exchange for valuable consideration. In the case of a lease with option to purchase, the date of sale is the date when the purchase option is exercised and the property is transferred. "Date of sale," "date of transfer," "conveyance date," and "transaction date" all have the same meaning and may be used interchangeably in this chapter. The real estate excise tax is due on the date of sale.

(6) **"Department"** means the department of revenue.

(7) **"Floating home"** means a building on a float used in whole or in part for human habitation as a single-family dwelling, which is not designed for self-propulsion by mechanical means or for propulsion by means of wind, and which is on the property tax rolls of the county in which it is located.

(8) **"Governmental entity"** means the United States, any agency or instrumentality of the United States, the state of Washington ("state"), any government agency, commission, college, university, or other department of the state, any political subdivision of the state, counties, any county agency, council, instrumentality, commission, office, or department, any Washington taxing district, municipal corporations of this state, and any office, council, department, or instrumentality of a Washington municipal corporation.

(9) **"Mining property"** is property containing or believed to contain metallic or nonmetallic minerals, and sold or leased under terms that require the buyer or lessee to conduct exploration or mining work thereon, and for no other purpose.

(10) **"Mobile home"** means a mobile home as defined by RCW 46.04.302.

(11) **"Mortgage"** has its ordinary meaning, and includes a "deed of trust" for the purposes of this chapter, unless the context clearly indicates otherwise. The term "underlying debt" may also be used to refer to a mortgage or other security interest.

(12) **"Park model trailer"** means a park model trailer as defined in RCW 46.04.622.

(13) **"Real estate"** or **"real property"** means any interest, estate, or beneficial interest in land or anything affixed to land, including the ownership interest or beneficial interest in any entity that owns land, or anything affixed to land, includ-

ing standing timber and crops. The term includes condominiums and individual apartments for which the buyer receives a warranty deed. The term includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land. The term also includes any part of an irrigation system that is underground or affixed to the land. The term does not include irrigation equipment that is above the ground or that is not affixed to land. See RCW 82.12.020 for the tax treatment of sales of irrigation equipment that is not included in the definition of "real estate."

(14) **"Real estate contract"** or **"contract"** means any written agreement for the sale of real property in which legal title to the property is retained by the seller as security for the payment of the purchase price. The term does not include earnest money agreements or options to purchase real property.

(15) **"Sale"** means:

(a) Any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such a conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person at the purchaser's direction, and title to the property is retained by the vendor as security for the payment of the purchase price. The term includes the grant, relinquishment, or assignment of a life estate in property. The term also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

(b) The term "sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration. For the purposes of this chapter, all acquisitions of persons acting in concert are aggregated for the purpose of determining whether a transfer or acquisition of a controlling interest has taken place.

(c) The term "sale" also applies to successive sales of the same property. An owner of real property is subject to payment of the real estate excise tax upon the entry of each successive contract for the sale of the same parcel of property. For example, Bob owns a house that he sells to Sam on a real estate contract. Real estate excise tax is paid on the transfer from Bob to Sam. Sam makes several payments, until he becomes unemployed. Since Sam can no longer make payments on the property, he conveys it back to Bob. Bob then makes a subsequent sale of the house to Sally. Real estate excise tax is due on the transfer from Bob to Sally. See WAC 458-61A-209 for the tax implications on the conveyance from Sam back to Bob.

(d) The term "sale" does not include:

(i) Those real property transfers that are excluded from the definition of "sale" and exempted from the real estate excise tax under RCW 82.45.010(3) and this chapter, including transfers without valuable consideration.

(ii) The transfer of lots or graves in an established cemetery. An established cemetery is one that meets the requirements for ad valorem property tax exemption under chapter 84.36 RCW.

(iii) The transfer of an interest in real property merely to secure a debt or the assignment of a security interest, release of a security interest, satisfaction of a mortgage, or reconveyance under the terms of a mortgage or deed of trust.

(iv) A deed given to a purchaser under a real estate contract upon fulfillment of the terms of the contract provided that the proper tax was paid on the original transaction. The fulfillment deed must be stamped by the county treasurer as required by WAC 458-61A-301, and the stamp must show the affidavit number of the sale for which the deed is fulfilling.

(e) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not be taxable. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(i) John paid off his home mortgage and wants to get a loan to make improvements and buy a new car. John obtains an equity loan, secured by his home as collateral. This transaction is not subject to the real estate excise tax.

(ii) Bob purchased real property from Sam pursuant to a real estate contract. Real estate excise tax was paid on the purchase price at the time of the sale. Bob has now paid off the property, and Sam is issuing a fulfillment deed to Bob indicating that the real estate contract has been satisfied. The fulfillment deed from Sam to Bob is not subject to the real estate excise tax.

(iii) Diane has made the final payment on her mortgage, and the bank issues a full reconveyance of her property, indicating that the mortgage is paid in full. The reconveyance is not subject to the real estate excise tax.

(iv) Bill is refinancing his mortgage for a lower interest rate. There is a balloon payment on the new loan that will require that he refinance again in five years. Neither transaction is subject to the real estate excise tax.

(16) **"Seller"** means any individual, receiver, assignee, trustee for a deed of trust, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, limited liability company, business trust, municipal corporation, quasi municipal corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, but it does not include the United States or the state of Washington. The term "grantor" is used interchangeably with the term "seller" in this chapter and has the same meaning for purposes of the real estate excise tax.

(17) **"Selling price"** means the true and fair value of the property conveyed. There is a rebuttable presumption that the true and fair value is equal to the total consideration paid or contracted to be paid to the seller or to another person for the seller's benefit.

(a) When the price paid does not accurately reflect the true and fair value of the property, one of the following methods may be used to determine the true and fair value:

(i) A fair market appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made under section 1060 of the Internal Revenue Code of 1986, as amended.

(b) When the true and fair value of the property at the time of sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained in the county property tax rolls at the time of sale will be used as the selling price. RCW 82.45.030.

(c) When the sale is of a partial interest in real property, the principal balance of any debt remaining unpaid at the time of sale will be multiplied by the percentage of ownership transferred, and that amount added to any other consideration to determine the selling price.

(d) In the case of a lease with option to purchase, the selling price is the true and fair value of the property conveyed at the time the option is exercised.

NEW SECTION

WAC 458-61A-103 Transfers involving an underlying debt. (1) Introduction. The real estate excise tax applies to transfers of real property when the grantee relieves the grantor from an underlying debt on the property or makes payments on the grantor's debt. The measure of the tax is the combined amount of the underlying debt on the property and any other consideration.

For example, Yen transfers property to Lee that is subject to an underlying debt. Yen is personally liable for the debt, meaning that if Yen does not make the payments the lender may foreclose on the property and obtain a judgment against Yen if the value of the property is insufficient to pay the debt. Lee agrees to make all future payments on Yen's debt but gives no other consideration for the property. Yen owes real estate excise tax on the amount of the underlying debt. Lee's payments on the underlying debt relieve Yen of her debt obligation. Therefore, Yen receives consideration.

(2) Transfers where grantor has no personal liability for the underlying debt. Real estate excise tax does not apply to transfers of real property subject to an underlying debt when the grantor has no personal liability for the debt and receives no other consideration for the transfer.

For example, Yen purchases property with funds obtained from PSP Corporation and secured only by the property. Yen has no personal liability for this debt. If Yen fails to make payments on the debt, PSP may foreclose on the property but it may not obtain a judgment against Yen. Yen transfers the property to Lee subject to the underlying debt. Lee takes the property subject to the underlying debt, and does not give any other consideration for the property. If Lee fails to make payments, PSP may foreclose on the property but it may not obtain a judgment against Lee (who, like Yen before, has no personal liability for the debt). Because Yen is not personally liable for the debt, Lee's payments on the underlying debt to PSP do not relieve Yen of any liability for the debt. The real estate excise tax does not apply to this transfer because there is no consideration.

(3) Documentation. In order to avoid the incidence of the tax, the grantor must present and maintain proper documentation to verify the type of debt and to confirm that fact that the grantor is not personally liable for the debt.

NEW SECTION**WAC 458-61A-104 Assignments. (1) Purchasers.**

(a) The real estate excise tax does not apply to an assignment of a purchaser's interest in an earnest money agreement if neither the earnest money agreement nor its assignment results in a change of title to or ownership of the real property.

(b) The real estate excise tax does apply to transfers when the purchaser of real property under a real estate contract assigns the purchaser's interest in the contract for consideration. The tax is based on all consideration paid or contracted to be paid to the grantor for the assignment, including any unpaid principal balance due on the assigned real estate contract.

(2) **Sellers.** The real estate excise tax does not apply when a seller of real property under a real estate contract assigns any interest in the contract to a third party.

(3) **Documentation.** The real estate excise tax affidavit is not required for exempt assignments; however, the instrument of assignment must be stamped by the county treasurer as required by WAC 458-61A-301. The stamp will cross-reference the number of the affidavit relating to the contract being assigned.

NEW SECTION**WAC 458-61A-105 Mobile and floating home sales.**

(1) **Mobile homes.** The transfer of a mobile home is subject to either real estate excise tax or sales/use tax, depending on the characteristics of the transfer, regardless of whether the mobile home is classified as real or personal property on the assessment rolls.

(2) **Application of real estate excise tax.** The real estate excise tax applies to the transfer of a mobile home that:

(a) Is affixed to land by a foundation (post or blocks) and has connections for utilities;

(b) Is not required to be removed from the land as a condition of sale; and

(c) Has been subject to retail sales or use tax during a previous sale.

(3) **Sales or use tax.** Mobile home sales are subject to retail sales or use tax in the following instances:

(a) The initial retail sale of the mobile home;

(b) The sale from a dealer's lot of either a new or used mobile home;

(c) If the removal of the mobile from the land is a condition of the sale; or

(d) The mobile home is not affixed to the land by a foundation and does not have connections for utilities.

(4) **Floating homes.** The real estate excise tax applies to the transfer of a floating home that is:

(a) Constructed on a float used in whole or in part for human habitation as a single-family dwelling;

(b) Not designed for self-propulsion by mechanical means or for propulsion by means of wind; and

(c) Listed on the real property tax rolls of the county in which it is located and in respect to which tax has been paid under chapter 82.08 or 82.12 RCW.

NEW SECTION**WAC 458-61A-106 Sales of improvements to land, leases, and leases with option. (1) Introduction.**

(a) The sale of improvements constructed on real property is subject to the real estate excise tax if the contract of sale does not require that the improvements be removed at the time of sale.

(b) The transfer of a lessee's interest in a leasehold for valuable consideration is taxable to the extent the transfer includes any improvement constructed on leased land. If the selling price of an improvement is not separately stated, or cannot otherwise be reasonably determined, the assessed value of the improvement as entered on the assessment rolls of the county assessor will be used.

(2) **Lease with option to purchase.** The real estate excise tax applies to a lease with option to purchase at the time the purchase option is exercised and the property is transferred. The measure of the tax is the true and fair value of the property conveyed at the time the option is exercised.

(3) **Improvements removed from land.** The real estate excise tax does not apply to the sale of improvements if the terms of the sales contract require that the improvements be removed from the land. In this case the improvements are considered personal property and their use by the purchaser is subject to the use tax under chapter 82.12 RCW.

(4) **Documentation.** Completion of the affidavit is required for all of the above transfers except a transfer described in subsection (3) of this section, in which case the purchaser must file a use tax return with the department.

NEW SECTION

WAC 458-61A-107 Option to purchase. (1) Introduction. The real estate excise tax applies to a conveyance of real property upon the exercise of an option to purchase.

(2) **Taxability of sales of options.** The real estate excise tax does not apply to the grant or sale of an option and the real estate excise tax affidavit is not required for that transaction. However, the sale of an option is subject to business and occupation tax under the service and other category and should be reported on the combined excise tax return. RCW 82.04.290.

(3) Examples.

(a) Joe acquires an option at a cost of \$100,000. The option, if exercised, allows Joe to purchase ten parcels of land for \$700,000. As individual parcels, these lots of land are uneconomical to develop. Joe "packages" the land, making it economically feasible to develop by either obtaining sufficient acreage or required studies. Buildup, a real estate development and construction company, purchases Joe's option on the property for \$2.3 million and subsequently exercises the option, paying \$700,000 for the land. The real estate excise tax does not apply to the sale of the option, however the \$2.3 million received for the option is subject to the business and occupation tax under the service and other category. The measure of the real estate excise tax is the \$700,000 purchase price paid on the transfer of the land.

(b) Consider the same initial facts as in the example in (a) of this subsection, but instead, Joe exercises the option, and subsequently sells the land to Buildup. The real estate

excise tax applies to both the transfer to Joe and the subsequent transfer from Joe to Buildup.

NEW SECTION

WAC 458-61A-108 Contractor. (1) **In general.** If land is deeded to a contractor with an agreement to reconvey the property after construction of an improvement, the real estate excise tax does not apply to either the first conveyance or to the reconveyance if:

(a) The land is deeded for the sole purpose of enabling the contractor to obtain financing for the construction of the improvement on the property conveyed; and

(b) The agreement to reconvey is contained in a written statement made prior to the original conveyance.

(2) **Tax treatment.** When both of the requirements of subsection (1) of this section have been met, the deed to the contractor, although absolute on its face, will be treated as creating a security interest only. However, the sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(3) **Documentation.** Real estate excise tax affidavits are required for both the original conveyance and the reconveyance. The affidavit must contain wording to the effect that the purpose of the transfers is for construction and security purposes only. The affidavit for reconveyance must refer to the date and number of the original affidavit.

(4) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples are provided as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Jill owns an unimproved lot. She contracts with Sapphire Construction to build a residence on her lot. The contract provides that the lot will be deeded to Sapphire to obtain financing. The contract also states the property will be deeded back to Jill when the residence is completed. No real estate excise tax is due on the transfer of the vacant lot from Jill to Sapphire. Six months later, the residence is completed. Sapphire Construction transfers the property (land plus improvement) to Jill. No real estate excise tax is due on this transfer. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(b) Eleanor owns a house on 20 acres. She contracts with Ruby Development to sell 19 of her acres, but keeps ownership of her house and one acre that it sits on. The price is \$20,000 per acre. Since the property is not subdivided, she must convey all of her property to Ruby Development, under the condition that the house and the one acre will be deeded back to her when the property is subdivided. Eleanor transfers the 20-acre parcel to Ruby Development. Real estate excise tax is due on the \$380,000 contract price (19 acres x \$20,000 per acre). After one year, Ruby Development has the property subdivided into 20 one-acre parcels. Ruby Development transfers to Eleanor the house and one acre per the original contract. No real estate excise tax is due on the transfer from Ruby Development to Eleanor.

(c) Next to Eleanor, Bob owns 25 acres. He contracts with Ruby Development to sell his 25 acres for \$400,000, with the agreement that two lots will be transferred back to him after the development is completed. Real estate excise tax is due on the \$400,000 contract price. The reconveyance of two lots back to Bob is not subject to real estate excise tax.

(5) If a contractor, acting under the terms of a contract, purchases land on behalf of a customer for the purposes of constructing an improvement, the later conveyance of the property to the customer is not subject to the real estate excise tax provided the requirements of WAC 458-61A-214 (Nominee) are met. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(6) When the owner of a lot contracts to have an improvement built upon the lot and retains title to the land, or when a lessee contracts to have an improvement built upon the lot and retains the leasehold interest, the real estate excise tax does not apply to the purchase of the improvement. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(7) When a speculative builder owns a lot and builds an improvement upon it, the subsequent sale of land and improvement is subject to the real estate excise tax. When a speculative builder sells a parcel of property with a partially constructed improvement with the understanding that the builder will complete the improvement, the real estate excise tax applies to the percentage of the project complete at the time of transfer. The retail sales tax applies to that portion of the selling price representing the construction to be completed after transfer.

NEW SECTION

WAC 458-61A-109 Trading/exchanging property and boundary line adjustments. (1) **Trading/exchanging property.** The real estate excise tax applies when real property is conveyed in exchange for other real property or any other valuable property. The real estate excise tax is due on the true and fair value for each individual property.

(2) **Boundary line adjustments.**

(a) **Introduction.** A boundary line adjustment is a legal method to make minor changes to existing property lines between two or more contiguous parcels. Real estate excise tax may apply depending upon the specific circumstances of the transaction. Boundary line adjustments include, but are not limited to, the following:

(i) Moving a property line to follow an existing fence line;

(ii) Moving a property line around a structure to meet required setbacks;

(iii) Moving a property line to remedy a boundary line dispute;

(iv) Moving a property line to adjust property size and/or shape for owner convenience; and

(v) Selling a small section of property to an adjacent property owner.

(b) **Boundary line adjustments in settlement of dispute.** Boundary line adjustments made solely to settle a

boundary line dispute are not subject to real estate excise tax if no other consideration is present.

(c) **Taxable boundary line adjustments.** In all cases, real estate excise tax applies to boundary line adjustments if there is consideration (other than resolution of the dispute), such as in the case of a sale or trade of property.

(3) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples are provided as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Mr. Jehnsen and Mr. Smith own adjoining parcels of land separated by a fence. During a survey to confirm the property boundary of Mr. Smith's parcel, the parties discover that the true property line actually extends five feet over on Mr. Jehnsen's side of the fence. Mr. Jehnsen does not want to move the fence. He has paved, landscaped and maintained this section of land and if he gave it up he would lose his parking area. After numerous discussions regarding the property line, Mr. Smith agrees to quitclaim the five-foot section of land to Mr. Jehnsen. Real estate excise tax does not apply since there is no consideration other than resolution of the dispute.

(b) Mr. Smith will only agree to transfer the five-foot section of land to Mr. Jehnsen if he is paid \$1,000. Mr. Smith owes real estate excise tax on \$1,000.

(c) Mr. Smith will cede the five-foot parcel only if Mr. Jehnsen gives him a narrow strip of land in exchange. Mr. Jehnsen agrees to exchange a ten-foot section of his parcel for the five-foot section of Mr. Smith's parcel solely to resolve the boundary line dispute. Real estate excise tax does not apply. It is irrelevant that the property involved in the transfer is not equal since the sole purpose of the transfer is to settle a boundary line dispute.

(d) Mr. Smith and Mr. Jehnsen are unable to resolve their dispute over the five-foot parcel. Mr. Jehnsen agrees to trade his lake front cabin for Mr. Smith's entire parcel. Mr. Jehnsen will owe real estate excise tax on the fair market value of the lake front cabin. Mr. Smith owes real estate excise tax on the fair market value of his parcel.

(e) Mr. Smith wants something in exchange for giving the five-foot parcel to Mr. Jehnsen. Mr. Jehnsen agrees to give Mr. Smith his tractor in exchange for the five-foot section of land. Mr. Smith will owe real estate excise tax on the fair market value of the five-foot section of his parcel and use tax on the value of the tractor (see WAC 458-20-178).

(f) Mr. Robbins owns 18 acres of land adjacent to Ms. Pemberton's 22-acre parcel. Mr. Robbins would like to develop his 18 acres, but he needs two more acres to develop the land. Ms. Pemberton agrees to give Mr. Robbins two acres of land. In exchange Mr. Robbins agrees to pave Ms. Pemberton's driveway as part of the land development. The real estate excise tax is due on the true and fair value of the two acres conveyed to Mr. Robbins. In addition, sales or use tax may be due on the value of the paving.

(4) **Documentation.** In all cases, an affidavit is required to record the new property line.

NEW SECTION

WAC 458-61A-110 Relocation service—Two-deed process. (1) **Introduction.** The real estate excise tax applies to property transfers involving the two-deed process or delivery of a deed, blank as to the grantee, but otherwise complete.

(2) **Delivery to third party.** The subsequent delivery of the deed to a third person named as grantee for consideration is also a taxable sale.

(3) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples are provided as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Bob lists his house with a realtor under an agreement that if the house does not sell within four months, the realtor will purchase the house from Bob at the agreed price. Bob intends to purchase a house listed with that realtor and needs the funds from the sale of his house to use as a payment for the new house. Bob's house does not sell within the four-month period so the realtor purchases Bob's house. Bob executes a blank deed and gives it to the realtor, authorizing the realtor to insert the grantee's name when the realtor eventually resells the house. Real estate excise tax is due on both transfers. Bob owes real estate excise tax on the selling price of the house at the time he transfers the house to the realtor. The realtor owes real estate excise tax on the selling price of the house upon sale to the final buyer.

(b) PSP Corporation contracts with a relocation company to handle the sale of homes for its employees that are relocating. The employee transfers the property to the relocation company. The relocation company delivers the deed to an escrow company who holds the deed until the relocation company finds a buyer. Real estate excise tax is due on both transfers. Tax is due when the employee transfers the deed to the relocation company. Real estate excise tax is due on the second transfer when the relocation company transfers the property to the buyer.

(4) **Transactions involving only a single deed.** In the event the transactions are accomplished by one deed, the county may require documentation confirming the date of sale of each transaction. The documentation may include a copy of the relocation contract, copy of the settlement statement(s), etc. Even though there is only one deed, two taxable transactions have occurred, and real estate excise tax is due on both.

NEW SECTION

WAC 458-61A-111 Easements, development rights, water rights, and air rights. (1) **Easements.** The real estate excise tax applies to the conveyance of an easement for the use of real property in return for valuable consideration. The real estate excise tax affidavit is required only if the transfer is taxable.

(2) **Development rights, water rights, and air rights.**

(a) The real estate excise tax applies to the sale of development rights, water rights, and air rights. The measure of the tax is the total consideration received in exchange for the transfer of the right. The real estate excise tax affidavit must be completed for the transfer of development rights, water

rights, and air rights regardless of whether a taxable sale has occurred.

(b) **"Development rights"** means transferable rights to the unused development on a parcel of land measured by the difference between the existing development density on the parcel and the density allowed by applicable zoning laws.

(c) **"Water rights"** means transferable rights to the diversion, extraction or use of water arising by virtue of the ownership of land located contiguous to surface water, a water right claim, or the possession of a water right permit or certificate issued by the department of ecology.

(d) **"Air rights"** means the exclusive undisturbed use and control of a designated air space within the perimeter of a stated land area and within stated elevations.

NEW SECTION

WAC 458-61A-112 Mineral rights and mining claims. (1) **When tax is imposed.** A conditional sale of mining property in which the grantee has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee/grantee has the right to terminate the lease and option at any time, is taxable at the time of execution on the amount of the consideration paid to the grantor/lessor for execution of the contract. The tax due on any additional consideration paid by the grantee and received by the grantor is paid to the county upon the first occurrence of the following events:

(a) The time of termination;

(b) The time that all of the consideration due to the grantor has been paid and the transaction is completed except for the delivery of the deed to the grantee; or

(c) The time when the grantee unequivocally exercises an option to purchase the property.

(2) **Lease for royalty.** A mining lease that grants the lessee the right to conduct mining exploration upon or under the surface of real property and to remove minerals from the property in exchange for a royalty is not subject to the real estate excise tax when the lease does not transfer ownership of the minerals to the lessee prior to severance from the real property.

(3) **Patented claims.** Patented mining claims are real property and their sale is subject to the real estate excise tax.

(4) **Unpatented claims.** Unpatented mining claims are intangible personal property and therefore not subject to the real estate excise tax.

NEW SECTION

WAC 458-61A-113 Timber, standing. (1) The real estate excise tax applies to the sale of timber if the ownership of the timber is transferred while the timber is standing. The tax applies to the sale of standing timber whether the sale is accomplished by deed or by contract. See also chapters 84.33 RCW and 458-40 WAC for specific regulations and rules regarding the taxation of timber and forest land.

(2) The grantor's irrevocable agreement to sell timber and pass ownership to it as it is cut is a taxable transaction if the total amount of the sale is specified in the original contract.

(3) A contract to transfer the ownership of timber after it has been cut and removed from land by the grantee is not a taxable transaction.

(4) A contract between a timber owner and a harvester when the harvester provides the service of cutting the timber and transporting it to the mill is not subject to the real estate excise tax if the timber owner retains ownership of the timber until it is delivered to and purchased by the mill.

EXEMPTIONS AND EXCLUSIONS

NEW SECTION

WAC 458-61A-200 Exemptions and exclusions. **Introduction.** There are limited exemptions or exclusions from the real estate excise tax provided by law. WAC 458-61A-201 through 458-61A-217 discuss exemptions and the procedures that must be followed to qualify for an exemption.

NEW SECTION

WAC 458-61A-201 Gifts. (1) **Introduction.** Generally, a gift of real property is not a sale, and is not subject to the real estate excise tax. A gift of real property is a transfer for which there is no consideration given in return for granting an interest in the property. If consideration is given in return for the interest granted, then the transfer is not a gift, but a sale, and it is subject to the real estate excise tax to the extent of the consideration received.

(2) **Consideration.** See WAC 458-61A-102 for the definition of "consideration." Consideration may also include:

(a) Monetary payments from the grantee to the grantor;

or

(b) Monetary payments from the grantee toward underlying debt (such as a mortgage) on the property that was transferred, whether the payments are made toward existing or refinanced debt.

(3) **Assumption of debt.** If the grantee agrees to assume payment of the grantor's debt on the property in return for the transfer, there is consideration, and the transfer is not exempt from tax. Real estate excise tax is due on the amount of debt assumed, in addition to any other form of payment made by the grantee to the grantor in return for the transfer. However, equity in the property can be gifted.

(4) **Rebuttable presumption regarding refinancing transactions.**

(a) There is a rebuttable presumption that the transfer is a sale and not a gift if the grantee is involved in a refinance of debt on the property within six months of the time of the transfer.

(b) There is a rebuttable presumption that the transfer is a gift and not a sale if the grantee is involved in a refinance of debt on the property more than six months from the time of the transfer.

(5) **Documentation.**

(a) A completed real estate excise tax affidavit is required for transfers by gift. A supplemental statement approved by the department must be completed and attached to the affidavit. The supplemental statement will attest to the existence or absence of underlying debt on the property, whether the grantee has or will in the future make any pay-

ments on the debt, and whether a refinance of debt has occurred or is planned to occur. The statement must be signed by both the grantor and the grantee.

(b) The grantor must retain financial records providing proof that grantor is entitled to this exemption in case of audit by the department. Failure to provide records upon request will result in subsequent denial of the exemption.

(6) Examples.

(a) **Overview.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(b) Examples—No debt.

(i) John conveys his residence valued at \$200,000 to Sara. John comes off of the title. There is no underlying debt on the property, and Sara gives John no consideration for the transfer. The conveyance from John to Sara qualifies for the gift exemption from real estate excise tax.

(ii) Keith and Jean, as joint owners, convey their residence valued at \$200,000 to Jean as her sole property. There is no underlying debt on the property. In exchange for Keith's one-half interest in the property, Jean gives Keith \$10,000. Keith has made a gift of \$90,000 in equity, and received consideration of \$10,000. Real estate excise tax is due on the \$10,000.

(c) Examples—Existing debt.

(i) Josh conveys his residence valued at \$200,000 to Samantha. Josh has \$25,000 in equity and an underlying debt of \$175,000. Josh continues to make the mortgage payments out of his own funds, and Samantha does not contribute any payments toward the debt. Since Josh continues to make the payments, there is no consideration from Samantha to Josh, and the transfer qualifies for exemption as a gift.

(ii) Josh conveys the residence to Samantha, and after the transfer, Samantha begins to make payments on the debt. Josh does not contribute to the payments on the debt after the title is transferred. Josh has made a gift of his \$25,000 equity, but real estate excise tax is due on the \$175,000 debt that Samantha is now paying.

(iii) Dan conveys his residence valued at \$200,000 to himself and Jill as tenants in common. Dan has \$25,000 in equity and an underlying debt of \$175,000. Dan and Jill open a new joint bank account, to which they both contribute funds equally. Mortgage payments are made from their joint account. There is a rebuttable presumption that real estate excise tax is due on the conveyance because Jill appears to be contributing toward payments on the debt. In that case, real estate excise tax is due on the consideration given by Jill, (50% of the underlying debt) based upon her contributions to the joint account. The tax will be calculated on a one-half interest in the existing debt (\$87,500).

(iv) Dan conveys the residence to himself and Jill. Dan has \$25,000 in equity, and a mortgage of \$175,000. Dan and Jill open a new joint bank account, which is used to make the mortgage payments, but Dan contributes 100% of the funds to the account. The conveyance is exempt from real estate excise tax, because Jill has not given any consideration in exchange for the transfer.

(v) Bob conveys his residence valued at \$200,000 to himself and Jane as tenants in common. Bob has \$25,000 equity, and an underlying debt of \$175,000. Bob and Jane have contributed varying amounts to an existing joint bank account for many years prior to the conveyance. Mortgage payments have been made from the joint account both before and after the transfer. The conveyance is exempt from real estate excise tax, because Jane's contributions toward the joint account from which the payments are made is not deemed consideration in exchange for the transfer from Bob (because she made contributions for many years before the transfer as well as after the transfer, there is no evidence that her payments were consideration for the transfer).

(vi) Bill and Melanie, as joint owners, convey their residence valued at \$200,000 to Melanie, as her sole property. There is an underlying debt of \$170,000. Prior to the transfer, both Bill and Melanie had contributed to the monthly payments on the debt. After the transfer, Melanie begins to make 100% of the payments, with Bill contributing nothing toward the debt. Bill's equity (\$15,000) is a gift, but Melanie's taking over the payments on the mortgage is consideration received by Bill. Real estate excise tax is due on \$85,000 (Bill's fractional interest in the property multiplied by the outstanding debt at the time of transfer: 50% x \$170,000).

(vii) Casey and Erin, as joint owners, convey their residence to Erin. There is an underlying debt of \$170,000 in both their names. For the three years prior to the transfer, Erin made 100% of the payments on the debt. After the transfer, Erin continues to make 100% of the payments. The transfer is exempt from the real estate excise tax because Erin made all the payments on the property before the transfer as well as after the transfer; there is no evidence that her payments were consideration for the transfer.

(d) Examples—Refinanced debt.

(i) Bob conveys his residence to himself and Jane. Within one month of the transfer, Bob and Jane refinance the underlying debt of \$175,000 in both their names, but Bob continues to make the payments on the debt. Jane does not contribute any funds toward the payments. The conveyance qualifies for the gift exemption because Jane gave no consideration for the transfer.

(ii) Casey and Erin, as joint owners, convey their residence valued at \$200,000 to Erin as sole owner. There is an underlying mortgage on the property of \$170,000. Prior to the transfer, Casey and Erin had both contributed to the monthly mortgage payments. Within one month of the transfer, Erin refinances the mortgage in her name only and begins to make payments from her separate account. In this case, there is a rebuttable presumption that this is a disguised sale, since Erin, through her refinance, has assumed sole responsibility for the underlying debt. Real estate excise tax is due on \$85,000 (Casey's fractional interest in the property multiplied by the total debt on the property: 50% x \$170,000).

(iii) Kyle conveys his residence valued at \$200,000 to himself and Amy as tenants in common. Kyle has \$25,000 in equity, and an underlying debt of \$175,000. Within one month of the transfer, Kyle and Amy refinance the mortgage in both their names, and open a joint bank account to which they contribute funds equally. Payments on the new mortgage are made from the joint account. There is a rebuttable

presumption that Amy's contributions to the joint account are consideration for the transfer, since Amy appears to have agreed to pay half of the monthly debt payment, and real estate excise tax may be due. The measure of the tax is one-half of the underlying debt to which Amy is contributing (\$87,500).

(iv) Kyle conveys his residence to himself and Amy. Kyle continues to make the payments on the underlying debt of \$175,000. Nine months after the transfer, Kyle and Amy refinance the property in both of their names. After the refinance, Kyle and Amy contribute equally to a new joint bank account from which the mortgage payments are now made. Amy's contribution to the mortgage nine months after the transfer is not deemed consideration in exchange for the transfer from Kyle to the two of them as tenants in common. The conveyance will qualify for the gift exemption.

(e) **Example—Refinanced debt—"Cosigner."** Charlie and Sadie, a married couple, own a residence valued at \$200,000 with an underlying mortgage of \$170,000. Sadie receives the property when they divorce. After a few months, Sadie tries to refinance, but her credit is insufficient to obtain a loan in her name only. Aunt Grace offers to assist her by becoming a "co-borrower" on the loan. As a result, the bank requires that Aunt Grace be added to the title. Following the refinance, Sadie makes 100% of the payments on the new debt, and Aunt Grace gives no consideration for being added to the title. The conveyance adding Aunt Grace to the title is exempt from real estate excise tax. Although the quitclaim deed from Sadie to Aunt Grace may be phrased as a gift, the transfer is exempt as Aunt Grace's presence on the title acts as an exempt security interest to protect Aunt Grace in the event Sadie defaults on her mortgage. See WAC 458-61A-215 for this exemption.

(f) **Example—Rental or commercial property.** Sue owns a rental property valued at \$200,000, with an underlying mortgage of \$175,000. Sue conveys the property to herself and Zack as tenants in common. Prior to the transfer, the rental income went to a bank account in Sue's name only, and she made the mortgage payments from that account. After the transfer, Zack's name is added to the bank account. The rental income is now deposited in the joint account, and the mortgage payments are made from that account. There is a rebuttable presumption that this is a taxable transaction, because this appears to be a business arrangement. As a business venture, one-half of the rental income now belongs to Zack, and is being contributed toward payment of the mortgage. The real estate excise tax will be due on the one-half interest of the debt contributed by Zack (\$87,500).

NEW SECTION

WAC 458-61A-202 Inheritance or devise. (1) **Introduction.** Transfers of real property by inheritance or devise are not subject to the real estate excise tax. For the purpose of this exemption, it does not matter whether the real property transferred was encumbered by underlying debt at the time it was inherited or devised.

(2) **Nonpro rata distributions.** A nonpro rata distribution is one in which the transfer of real property to the heirs or devisees may not be in proportion to their interests. For

example, Aunt Mary wills her entire estate equally to her three nieces. The estate consists of her primary residence, a cottage at the ocean, and significant cash assets, among other things. Rather than take title to the two parcels of real estate in all three names, the estate may be distributed by deeding the primary residence to Meg, the oceanfront property to Beth, and the majority of the cash assets to Jo. Such distribution by a personal representative of a probated estate or by the trustee of a trust is not subject to the real estate excise tax if the transfer is authorized under the nonintervention powers of a personal representative under RCW 11.68.090 or under the nonpro rata distribution powers of a trustee under RCW 11.98.070(15), if no consideration is given to the personal representative or the trustee for the transfer. For the purpose of this section, consideration does not include the indebtedness balance of any real property that is encumbered by a security lien.

(3) **Subsequent transfers.** A transfer of property from an heir to a third party is subject to the real estate excise tax. Examples:

(a) Steve inherits real property from his mother's estate. He sells the property to his son for \$50,000. The transfer of the property from the estate to Steve is exempt from real estate excise tax. The subsequent sale of the property to his son is a taxable event, and tax is due based upon the full sales price of \$50,000.

(b) Susan inherits real property from her father's estate. She decides to sell it to a friend on a real estate contract for \$100,000. Tax is due on the \$100,000.

(c) Sheri and her two sisters inherit their father's home, valued at \$180,000, in equal portions. Sheri wants sole ownership of the home but there are not "in-kind" assets of sufficient value to be distributed by the personal representative to her two sisters in a nonpro rata distribution. In order to take title directly from the personal representative, Sheri pays each of her sisters \$60,000, and they quitclaim their right to the property under the will. Tax is due on the total of \$120,000 paid for the property.

(4) **Community property or right of survivorship.** The transfer of real property to a surviving spouse in accordance with a community property agreement or a survivorship clause is not subject to real estate excise tax.

(5) **Joint tenants.** The transfer of real property upon the death of a joint tenant to the remaining joint tenants under right of survivorship is not subject to the real estate excise tax.

(6) **Life estates and remainder interests.** The conveyance of a life estate to the grantor with a remainder interest to another party is not a taxable transfer if no consideration passes. For example, Nate and Libby convey their property to their son, Rex, retaining a life estate for themselves. The transaction is not subject to real estate excise tax because Rex pays no consideration. Upon the deaths of Nate and Libby, the title will vest in Rex and no real estate excise tax is due. However, if Nate and Libby convey their property to Rex, retaining a life estate for themselves, and Rex pays any consideration for his future interest, the transaction is taxable. Tax is due on the total consideration paid.

(7) **Documentation.** In order to claim this exemption, the following documentation must be provided:

(a) **Community property agreement.** If the property is being transferred under the terms of a community property agreement, copies of the recorded agreement and certified copy of the death certificate;

(b) **Trusts.** If property is being transferred under the terms of a testamentary trust without probate, a certified copy of the death certificate, and a copy of the trust agreement showing the authority of the grantor;

(c) **Probate.** In the case of a probated will, a certified copy of the letters testamentary, or in the case of intestate administration, a certified copy of the letters of administration, showing that the grantor is the court appointed executor/executrix or administrator;

(d) **Joint tenants and remainder interests.** A certified copy of the death certificate is recorded to perfect title;

(e) **Other.** A certified copy of the court order requiring the transfer of property, and confirming that the grantor is required to do so under the terms of the order.

NEW SECTION

WAC 458-61A-203 Community property, dissolution of marriage, legal separation, decree of invalidity. (1) **Community property.** Transfers from one spouse to the other that establish or separate community property are not subject to the real estate excise tax.

(2) **Court decree.** The real estate excise tax does not apply to any transfer, conveyance, or assignment of property or interest in property from one spouse to the other in fulfillment of a settlement agreement incident to a decree of dissolution, declaration of invalidity, or legal separation.

(3) **Transfers to third parties.** A sale of real property by either one or both spouses to a third party is subject to the real estate excise tax, regardless of whether the sale is pursuant to the terms of a decree of dissolution, declaration of invalidity, or legal separation.

(4) **Former spouses.** Transfers of real property between ex-spouses that are independent of any settlement agreement incident to their decree of dissolution or decree of invalidity are subject to the real estate excise tax, unless otherwise exempt under this chapter.

NEW SECTION

WAC 458-61A-204 Tenants in common and joint tenants. (1) **Introduction.** The real estate excise tax does not apply to the transfer of real property that results in the creation of a tenancy in common or joint tenancy with or without right of survivorship if no consideration passes otherwise. See WAC 458-61A-201, Gifts.

(2) **Partition.** The partition of real property by tenants in common or joint tenants, by agreement or as the result of a court decree, is not subject to real estate excise tax. A partition results when tenants in common agree that certain tenants will be assigned certain particular tracts within the property that they own together. Transfers to partition real property are not subject to the real estate excise tax provided that the transfer is without additional consideration passing.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may qualify for this

exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Betsy, Haley, and Kalli own five riverfront parcels as tenants in common. One parcel is worth twice as much as any of the others, which are all equivalent in value. The property is partitioned. Betsy receives the especially valuable parcel; Haley and Kalli receive two parcels each. No real estate excise tax is due, since the partition of the property is by agreement and no additional consideration passed between the parties.

(b) David and Corwin are business partners; they own two parcels of real estate as tenants in common. One parcel is valued at \$200,000 and has an underlying debt of \$175,000. The other parcel is valued at \$25,000 and has no underlying debt. Pursuant to a proceeding to liquidate their partnership, the court orders partition of the real property. David receives the more valuable parcel and assumes full responsibility for the debt. Corwin receives the less valuable parcel. No real estate excise tax is due, because the partition of the property is pursuant to a court order.

(4) The transfer of property upon the death of a joint tenant to the remaining joint tenants under a right of survivorship is not subject to the real estate excise tax. Transfers of real property by inheritance are not subject to the real estate excise tax. WAC 458-61A-202, Inheritances or devise, is cited on the real estate excise tax affidavit to claim an exemption from the real estate excise tax for such transfers.

(5) The sale of an interest in real property from one or more joint tenants or tenants in common to remaining tenants or to a third party is a taxable transaction. The taxable amount of the sale is the total of the following:

(a) Any consideration given; and

(b) Any consideration promised to be given, including the amount of any debt remaining unpaid on the property at the time of sale multiplied by that fraction of interest in the real property being sold.

NEW SECTION

WAC 458-61A-205 Government transfers. (1) **Introduction.** Transfers of real property from a government entity are not subject to the real estate excise tax. Transfers of real property to a government entity are subject to real estate excise tax unless specifically exempted under this chapter. A completed real estate excise tax affidavit is required for transfers both to and from a government entity.

(2) **Government seller.** A governmental entity selling real property is exempt from the real estate excise tax.

(3) **Government purchaser.** Generally, a seller that is not a governmental entity must pay real estate excise tax on voluntary sales of real property to a governmental entity unless the transfer is otherwise exempt under this chapter. See WAC 458-61A-206 regarding transfers pursuant to condemnation proceedings or under threat of the exercise of eminent domain.

(4) **Transfers for a public purpose.** Transfers to a governmental entity for a public use in connection with the development of real property by a developer when the transfer is required for plat approval are not subject to the real

estate excise tax. For example, a developer who deeds property to the city for streets and utilities is not subject to real estate excise tax on the transfer.

NEW SECTION

WAC 458-61A-206 Condemnation proceedings. (1)

Introduction. Transfers of real property to a governmental entity under an imminent threat of the exercise of eminent domain, a court judgment or settlement with a government entity based upon a claim of inverse condemnation, or as a result of the actual exercise of eminent domain, are not subject to the real estate excise tax.

(2) **Transfer must be to a governmental entity.** To qualify for this exemption, the threat of condemnation or the exercise of eminent domain must be made by a governmental entity with the actual power to exercise eminent domain.

(3) **Threat to exercise eminent domain must be imminent.** To qualify for this exemption, the governmental entity must have either filed condemnation proceedings against the seller/grantee; or:

(a) The governmental entity must have notified the seller in writing of its intent to exercise its power of eminent domain prior to the sale; and

(b) The governmental entity must have the present ability and authority to use its power of eminent domain against the subject property at the time of sale; and

(c) The governmental entity must have specific statutory authority authorizing its power of eminent domain for property under the conditions presented.

(4) **Inverse condemnation.** Inverse condemnation occurs when the government constructively takes real property even though formal eminent domain proceedings are not actually taken against the subject property. The seller must have a judgment against the governmental entity, or a court approved settlement, based upon inverse condemnation to claim the exemption.

(5) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a sale to a governmental entity may or may not be exempt on the basis of condemnation or threat of eminent domain. The status of each situation must be determined after a review of all the facts and circumstances.

(a) The Jazz Port school district wants to purchase property for a new school. An election has been held to authorize the use of public funds for the purchase, and the general area for the site has been chosen. In order to proceed, the district will need to obtain a five-acre parcel owned by the Fairwood family. The district has been granted authority to obtain property by the use of eminent domain if required. The district has notified the Fairwoods in writing of its intention to exercise its powers of eminent domain if necessary to obtain the land. The Fairwoods, rather than allowing the matter to proceed to court, agree to sell the parcel to the Jazz Port district. The school district will use the parcel for construction of the new school. The conveyance from the Fairwoods to Jazz Port school district is exempt from real estate excise tax because the transfer was made under the imminent threat of the exercise of eminent domain.

(b) The Sonata City Parks Department has the authority to obtain land for possible future development of parks. The department would like to obtain waterfront property for preservation and future development. They approach Frankie and Chaz Friendly with an offer to purchase the Friendlys' 20-acre waterfront parcel. The Parks Department does not have a current appropriation for actual construction of a park on the site, and the City Council has not specifically authorized an exercise of eminent domain to obtain the subject property. The conveyance from the Friendlys to the city is subject to the real estate excise tax, because the transfer was not made under the imminent threat of the exercise of eminent domain.

NEW SECTION

WAC 458-61A-207 Bankruptcy. (1) Introduction.

The real estate excise tax does not apply to the conveyance of real property by a trustee in bankruptcy or debtor in possession made under either a confirmed chapter 11 plan or a confirmed chapter 12 plan. Federal law preempts real estate excise tax on these transfers.

(2) **Documentation requirements.** A copy of the Order of Confirmation or an extract from the Confirmed Bankruptcy Plan, showing the date the bankruptcy plan was confirmed, the court case cause number, and the bankruptcy chapter number must be attached to the real estate excise affidavit provided to the department.

NEW SECTION

WAC 458-61A-208 Foreclosure—Deeds in lieu of foreclosure—Sales pursuant to court order. (1) Introduction.

The real estate excise tax does not apply to any transfer or conveyance made pursuant to an order of sale by a court in any mortgage or lien foreclosure proceeding or upon execution of a judgment. Real estate excise tax affidavits which state claims for this tax exemption must cite the cause number of the foreclosure proceeding on the affidavit and the conveyance document. A copy of the court decision must be attached to the department's affidavit copy by the county treasurer.

(2) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Joan and Sam are friends. They decide to jointly purchase real property worth \$100,000 as tenants in common. One year later, they decide to end their co-ownership of the property. Joan and Sam cannot agree on how the property should be divided. They both obtain legal counsel and go to court to resolve the issue. The court orders that Sam will deed his interest in the real property to Joan and Sam will be paid \$65,000 for his interest in the property. No real estate excise tax is due on the transfer since the transfer is pursuant to a court ordered sale.

(b) Rather than going to trial, Joan and Sam agree to a settlement during the course of their negotiations. The attorneys draft an agreeable settlement under which Sam will get the property and Joan will be paid \$75,000. The settlement

agreement is presented to the court and the judge signs off on the agreement. Tax is due on the transfer because this is not a court ordered sale.

(3) **Foreclosure and contract forfeiture.** The real estate excise tax does not apply to the following transfers where no additional consideration passes:

(a) A transfer by deed in lieu of foreclosure to satisfy a mortgage or deed of trust;

(b) A transfer from a contract purchaser to the contract holder in lieu of forfeiture of a contract of sale upon default of the underlying obligation; or

(c) A transfer occurring through the cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, regardless of whether the contract contains a forfeiture clause, such as a declaration of forfeiture made under the provisions of RCW 61.30.070.

(d) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(i) Meg sells real property to Julie on a real estate contract. The contract price is \$65,000. Julie makes payments for one year and then loses her job and can't make payments on the contract. Julie feels that she has some equity in the property, but she and Meg disagree on how to resolve the issue. Eventually, they come to an agreement. Meg will pay Julie \$1,500; Julie will sign a deed in lieu of forfeiture and transfer the property to Meg. At the time of the deed in lieu of forfeiture, the outstanding balance of the contract was \$61,000. Even though the transfer was by a deed in lieu of forfeiture, there is additional consideration passing (the \$1,500). The transfer is subject to tax. The taxable selling price is \$62,500, which is the total of the outstanding contract balance that was canceled plus the \$1,500 paid to Julie.

(ii) Sally sells real property to Frank. Frank obtains a \$150,000 loan from Easy Bank. The bank secures the loan with a deed of trust on the real property. Frank is unable to make the payments on the loan. Frank transfers the property back to Easy Bank by deed in lieu of foreclosure to satisfy the deed of trust. No real estate excise tax is due on the transfer.

(iii) Mel sells real property to George. George obtains a \$100,000 loan from Zephyr Bank. The bank secures the loan with a deed of trust on the real property. George is unable to make the payments on the loan. George obtains a second loan of \$25,000 from Sam. Sam secures his loan with a second deed of trust on the real property. Sam's deed of trust is in junior position to Zephyr Bank's deed of trust. Later, George can't make payments to either the bank or Sam. At this time, George owes the Bank \$95,000 and Sam \$23,000. George transfers the real property to Sam by deed in lieu of foreclosure to satisfy Sam's junior deed of trust. The debt to Zephyr Bank (the senior position debt) remains unpaid on the property at the time of transfer. The transfer is partially exempt and partially taxable. The deed in lieu of the junior position debt is exempt. The senior position debt to the bank that remains outstanding on the property at the time of the transfer meets the definition of consideration and is subject to tax. Tax would be due on \$95,000.

(iv) Joe purchases a manufactured home and has it installed in a mobile home park. Joe signs a contract with the mobile home park owner to pay \$300 in monthly rent. If the rent is not paid, the contract states that the park owner has a lien against the manufactured home. Joe is injured and moves in with relatives in another state. Joe does not pay rent for six months. The park owner, takes title to the mobile home under the authority of the rent contract, and puts it up for sale to recover his interest for back rent. The park owner sells the manufactured home to Mimi. No tax is due on the transfer to the park owner, since that transfer was to satisfy a lien on the property. Real estate excise tax is due on the sale to Mimi.

(4) **Deed of trust.** The real estate excise tax does not apply to the foreclosure sale of real property by the trustee under the terms of a deed of trust, whether to the beneficiary listed on that deed or to a third party.

(5) **Assignment of indebtedness.** A transfer from a servicing agent, who has acquired real property under this section, to the actual owner of the indebtedness that was foreclosed upon is not subject to real estate excise tax. A copy of the assignment of the indebtedness or a copy of the trustee's deed identifying the servicing agent as an agent for the actual owner must be attached to the real estate excise tax affidavit provided to the department for exemptions claimed under this subsection.

For example, Gil sells real property to Max. Max obtains a \$125,000 loan from Zone Finance. The finance company secures the loan with a deed of trust on real property. Zone Finance sells the loan to Federal National Mortgage Association (Fannie Mae). The finance company becomes the servicing agent for the loan. Max can't make payments on the loan. Due to nonpayment on the debt, the Trustee (under the authority of the Deed of Trust) conducts a Trustee's sale of the real property. The Trustee transfers the property to the Zone Finance via a Trustee's Deed. No real estate excise tax is due on that transfer. Zone Finance Company transfers real property to Fannie Mae, the actual owner of the debt. No real estate excise tax is due on that transfer.

(6) **Sheriff's sale.**

(a) **Introduction.** The real estate excise tax does not apply to a transfer of real property made by a county sheriff pursuant to a court decree. A real estate excise tax affidavit must be filed with the county.

(b) The real estate excise tax applies to a subsequent sale or assignment of the right of redemption and the certificate of purchase that result from the sheriff's sale. The taxable consideration includes any payment given or promised to be given. It also includes the amount of underlying encumbrance, the payment of which is necessary for the exercise of the right of redemption.

(c) **Examples.**

(i) Bill sells property to Sam on a contract. After one year, Sam stops making payments on the contract. Bill obtains a judgment against Sam for nonpayment. At the Sheriff's sale, Bill obtains a certificate of purchase. Sam obtains the right of redemption. Sam is unable to make payment to redeem the right of redemption during the redemption period. When the redemption period is over, Bill turns the certificate of purchase over to the Sheriff. The Sheriff

issues a Sheriff's Deed to Bill. No real estate tax is due on the issuance of the Sheriff's deed to Bill.

(ii) Alternatively, at the Sheriff's sale, Bill obtains a certificate of purchase. Sam obtains the right of redemption. To exercise the right of redemption, the holder must remit \$50,000 to the Sheriff. Sam sells the right of redemption to Jerry for \$10,000. Real estate excise tax is due on \$60,000 for the transfer of the right of redemption from Sam to Jerry. Jerry exercises the right of redemption by paying \$50,000 to the Sheriff. The Sheriff issues a Sheriff's Deed to Jerry. No real estate tax is due on the issuance of the Sheriff's deed to Jerry.

(7) **Documentation.** In addition to the documentation requirements set forth in subsections (1) and (5) of this section, a copy of the recorded original mortgage, deed of trust, contract of sale, or lien document must be presented with the real estate excise tax affidavit.

NEW SECTION

WAC 458-61A-209 Rescission of sale. (1) Introduction. The reconveyance of property due to a rescission of sale is not subject to the real estate excise tax.

(2) **Consideration must be repaid to buyer.** To qualify for exemption under this rule, all consideration paid toward the selling price must be returned by the seller to the buyer at the time of the reconveyance.

(a) A seller may retain interest paid by the buyer without disqualifying the exemption.

(b) The payment of a reasonable reimbursement for site improvements will not disqualify the exemption.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a reconveyance may or may not be exempt on the basis of a rescission of sale. The status of each situation must be determined after a review of all the facts and circumstances.

(a) Scott sold his property to Mary by real estate contract for \$200,000 on January 15, 2004. Real estate excise tax was paid to Lion County. Mary gave Scott a down payment of \$10,000 and started making monthly payments of \$1,000 per month to Scott beginning March 2004. In September 2004 Mary notified Scott that she lost her job and wanted to rescind the purchase contract. Scott agreed to take the property back and returned the down payment of \$10,000, and the monthly principal payments totaling \$600 to Mary. The transfer back to Scott from Mary is exempt from real estate excise tax.

(b) Tony purchased Charlie's property by real estate contract for \$100,000 in March 2003. Real estate excise tax of \$1,780 was paid to Puget County. Tony made a \$15,000 down payment and began making \$800 monthly contract payments in May 2003. On October 31, 2004, Tony found out that the property had some minor problems and he wanted to rescind the purchase. Charlie agreed to take the property back but would not give back the money Tony had paid to Charlie for the property. Since all consideration paid toward the purchase of the property was not returned by Charlie, the transfer from Tony to Charlie does not qualify for exemption from real estate excise tax under this rule.

(c) Julie contracted to sell property to Amanda for \$150,000 in April 2004. Julie paid real estate excise tax to Rainier County before Amanda obtained financing. Amanda made a \$20,000 down payment to Julie and applied for a conventional loan to pay the balance of \$130,000. Subsequently, Amanda found out she could not qualify for a loan due to her past credit history. Amanda transferred the property back to Julie, and Julie returned the \$20,000 down payment to Amanda. The transfer back to Julie is exempt from real estate excise tax. In addition, the initial transfer from Julie to Amanda is exempt because Amanda was unable to qualify for a loan to finalize the purchase of the property.

(4) **Refunds.** See WAC 458-61A-301 for refund procedures with respect to real estate excise tax paid on original transfer when the sale is later rescinded.

NEW SECTION

WAC 458-61A-210 Irrevocable trusts. (1) Introduction. The distribution of real property to the beneficiaries of an irrevocable trust is not subject to the real estate excise tax if no valuable consideration is given for the transfer and the distribution is made according to the trust instrument.

(2) **Transfer into trust.** A conveyance of real property to an irrevocable trust is subject to the real estate excise tax if:

(a) The transfer results in a change in the beneficial interest and not a mere change in identity or ownership; and

(b) There is valuable consideration for the transfer.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a trust conveyance may or may not be exempt from real estate excise tax. The status of each situation must be determined after a review of all the facts and circumstances.

(a) Eric and Annie, husband and wife, transfer real property valued at \$500,000 to an irrevocable trust. The property has an underlying debt of \$300,000 that is secured by a deed of trust. Under the terms of the trust, the trustee is required to pay all the income annually to the grantors (Eric and Annie), or to the survivor if one of them dies. Upon the death of both Eric and Annie, the property will be divided equally among their children. The conveyance of the property into the trust is not subject to the real estate excise tax, even if the trust pays the indebtedness, because there has been no change in the present beneficial interest, and Eric and Annie did not receive consideration for the transfer.

(b) Jim and Jean, husband and wife, own real property valued at \$800,000. Upon Jean's death, her one-half interest in the property is transferred to Jean's testamentary trust under the terms of her will. Jim, as trustee, has sole discretion to accumulate income or to pay income to himself, or to their children, or to their grandchildren, or to each. The transfer to the trust is not subject to real estate excise tax. See WAC 458-61A-202.

(c) Upon Jean's death, Jim's remaining half-interest in the property is valued at \$400,000, with an underlying debt of \$30,000, for which he is personally liable. Jim transfers his half-interest to Jean's testamentary trust, and the trust pays or is obligated to pay the indebtedness. The conveyance of Jim's one-half interest is subject to real estate excise tax, because the transfer involves both a present change in the

beneficial interest (after Jean's death, assets in Jean's trust are legally separate from assets belonging to Jim) and there is valuable consideration in the form of relief of liability for the debt. The real estate excise tax is due on the amount of the consideration (\$30,000).

(4) **Revocable trusts.** See WAC 458-61A-211 for the taxability of transfers into a revocable trust.

(5) **Documentation.** When real property is transferred to or from a testamentary trust, or real property is transferred to or from an irrevocable trust, the following must be provided:

(a) A copy of the trust instrument; or

(b) A statement signed by the trustee or the grantor, or the representative of the trustee or grantor containing the following information:

(i) The name, address, and telephone number of the trustee or grantor, and/or representative of the trustee or grantor who is authorized to represent the trustee or grantor before the department of revenue;

(ii) The character of the trust, e.g., testamentary, irrevocable living trust, etc.;

(iii) The nature of the transfer:

(A) If the transfer is to or from a testamentary trust, the nature of and reason for the transfer.

(B) If the transfer is to or from an irrevocable living trust:

(I) The nature and reason for the transfer;

(II) Whether or not the property is encumbered with debt; and

(III) Whether or not the trustee may, at the time of the transfer, distribute income and/or principal to a person(s) other than the grantor(s).

NEW SECTION

WAC 458-61A-211 Mere change in identity or form—Family corporations and partnerships. (1) **Introduction.** A transfer of real property is exempt from the real estate excise tax if it consists of a mere change in identity or form of ownership of an entity. This exemption is not limited to transfers involving corporations and partnerships, and includes transfers of trusts, estates, associations, limited liability companies and other entities. If the transfer of real property results in the grantor(s) having a different proportional interest in the property after the transfer, real estate excise tax applies.

(2) **Qualified transactions.** A mere change in form or identity where no change in beneficial ownership has occurred includes, but is not limited to:

(a) The transfer by an individual or tenants in common of an interest in real property to a corporation, partnership, or other entity if the entity receiving the ownership interest receives it in the same pro rata shares as the individual or tenants in common held prior to the transfer. (See also WAC 458-61A-212, Transfers where gain is not recognized under the Internal Revenue Code.)

(b) The transfer by a corporation, partnership, or other entity of its interest in real property to its shareholders or partners, who will hold the real property either as individuals or as tenants in common in the same pro rata share as they owned the corporation, partnership, or other entity. To the

extent that a distribution of real property is disproportionate to the interest the grantee partner has in the partnership, it will be subject to real estate excise tax.

(c) The transfer by an entity of its interest in real property to its wholly owned subsidiary, the transfer of real property from a wholly owned subsidiary to its parent, or the transfer of real property from one wholly owned subsidiary to another.

(d) The transfer by a corporation, partnership or other entity of its interest in real property to another corporation, partnership, or other entity if the grantee owner(s) receives it in the same pro rata shares as the grantor owner(s) held prior to the transfer.

(e) Corporate mergers and consolidations that are accomplished by transfers of stock or membership, and mergers between corporations and limited partnerships as provided in chapters 25.10 and 24.03 RCW.

(f) A transfer of real property to a newly formed, beneficiary corporation from an incorporator to the newly formed corporation, provided:

(i) The proper real estate excise tax was paid on the original transfer to the incorporator; and

(ii) It was documented on or before the original transfer that the incorporator received title to the property on behalf of that corporation during its formation process.

This tax exemption does not apply to a transaction in which a property owner acquires title in his or her own name and later transfers title to the corporation upon its formation.

(g) A transfer into any revocable trust.

(h) A conveyance from a trustee of a revocable trust to the original grantor or to a beneficiary if no valuable consideration passes, or if the transaction is otherwise exempt under this chapter (for example, a gift or inheritance). A sale of real property by the trustee to a third party, or to a beneficiary for valuable consideration, is subject to the real estate excise tax.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may or may not qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Andy owns a 100% interest in real property. He transfers his property to his solely owned corporation. The transfer is exempt from real estate excise tax because there has been no change in the beneficial ownership interest in the property.

(b) Elizabeth owns a 100% interest in real property, and is the sole owner of Zippy Corporation. She transfers her property to Zippy. The corporation pays \$5,000 to Elizabeth and agrees to make payments on the underlying debt on the property. Despite the fact that there was consideration involved in the transfer, it is still exempt from tax because there was no change in beneficial ownership.

(c) Jim, Kathie, and Tim own real property as joint tenants. They transfer their property to their LLC in the same pro rata ownership. The transfer is exempt from real estate excise tax because there has been no change in beneficial ownership.

(d) Pat, Liz, and Erin own Stage Corporation. They also own Song & Dance Partnership, in the same pro rata owner-

ship percentages as their interests in the corporation. Stage Corporation transfers real property to Song & Dance Partnership. The transfer is exempt from real estate excise tax, because there has been no change in beneficial interest.

(e) Morgan owns real property. Brea owns Sparkle Corporation. Morgan transfers real property to Sparkle in exchange for an interest in the corporation. The transfer is subject to real estate excise tax because there has been a change in the beneficial interest in the real property. The tax applies to the extent that the transfer of real property results in the grantor having a different proportional interest in the property after it is transferred. (Note, however, that Morgan and Brea may be able to structure their transaction in a manner that would qualify for exemption under WAC 458-61A-212.)

(f) Dan owns property as sole owner. Jill owns property as sole owner. Dan and Jill each transfer their property to Rhyming LLC, which they form together. The transfers are taxable because there has been a change in the beneficial ownership interest in the real property. To the extent that the transfer of real property results in the grantor having a different proportional interest in the property after the transfer, it is taxable. (Note, however, that Dan and Jill may qualify for an exemption under WAC 458-61A-212.)

(g) Fred and Steve are equal partners in Jazzy Partnership. They decide to transfer real property from the partnership to themselves as individuals. Based on its true and fair value, the partnership transfers 60% of the real property to Fred and 40% to Steve. This distribution is not in proportion to their ownership interest in Jazzy Partnership, and the transfer is not exempt because there has been a change in the beneficial ownership interest. To the extent that the transfer of property results in the grantor having a different proportional interest in the property after the transfer, it is taxable. (Note, however, that Fred and Steve may qualify for an exemption under WAC 458-61A-212.)

(4) Disparate treatment of ownership interests.

(a) Where the ownership of real property is different for financial accounting purposes than for federal tax purposes, the beneficial ownership interest in the real property is deemed the entity which is the owner for financial accounting purposes. Any transfer from the entity that is the owner for federal tax purposes to the owner for financial accounting purposes, or vice versa, is subject to the real estate excise tax.

(b) For example, Giant Company wants to expand its business. It identifies some real property, but is unable to finance the purchase through a normal loan. It contracts with Mega Loans Inc. to enter into a "synthetic lease" for the purchase of the real property. Under the terms of the synthetic lease, Mega Loans will take title to the real property, and Giant Company will lease it from Mega Loans. Real estate excise tax is paid on the purchase of the real property by Mega Loans. The terms of the lease also provide that Mega Loans will be the owner for federal tax purposes and Giant Company will be the owner for financial accounting purposes. Per the lease agreement, after a specified time Mega Loans will transfer title to the real property to Giant Company. The transfer of title from Mega Loans to Giant Company is subject to real estate excise tax.

(5) **Family corporations, partnerships, or other entities.** This exemption applies to transfers to an entity that is wholly owned by the transferor and/or the transferor's spouse or children, regardless of whether the transfer results in a change in the beneficial ownership interest. However, real estate excise taxes will become due and payable on the original transfer as otherwise provided by law if:

(a) The partnership or corporation thereafter voluntarily transfers the property; or

(b) The transferor, spouse or children voluntarily transfer stock in the corporation, or interest in the partnership capital to other than:

(i) The transferor and/or the transferor's spouse or children;

(ii) A trust having the transferor and/or the transferor's spouse or children as the only beneficiaries at the time of transfer to the trust; or

(iii) A corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or children, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer is not paid within sixty days of becoming due.

For example, parents own real property as individuals. They create an LLC that is owned by themselves and their three children. The parents transfer the real property to the LLC. Despite the fact that there was a change in beneficial ownership interest, it is still exempt from tax, because the LLC is owned by the grantor and/or the grantor's spouse or children.

(6) **Transfers when there is not a change in identity or form of ownership of an entity.** This exemption applies to transfers of real property when the grantor and grantee are the same.

For example, John and Megan own real property as tenants in common. They decide that they prefer to hold the property as joint tenants with rights of survivorship. John and Megan, as tenants in common, convey the property to John and Megan as joint tenants with rights of survivorship. The transfer is exempt from real estate excise tax.

NEW SECTION

WAC 458-61A-212 Transfers where gain is not recognized under the Internal Revenue Code. (1) **Introduction.** A transfer that, for federal income tax purposes, does not involve the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization, is not subject to the real estate excise tax.

(2) **Internal Revenue Code sections.** This exemption includes, but is not limited to, nonrecognition of loss or gain under the following sections of the Internal Revenue Code of 1986:

(a) Section 332 - Corporate liquidations - Complete liquidations of subsidiaries.

(b) Section 337 - Corporate liquidations - Nonrecognition for property distributed to parent in complete liquidation of subsidiary.

(c) Section 351 - Corporate organizations and reorganizations - Transfer to corporation controlled by transferor.

(d) Section 368 (a)(1) - Corporate organizations and reorganization - Definitions relating to corporate reorganizations - Reorganizations - In general.

(e) Section 721 - Partners and partnerships - Nonrecognition of gain or loss on contribution.

(f) Section 731 - Partners and partnerships - Extent of recognition of gain or loss on distribution.

(3) **Extent of exemption.** This exemption applies only to transfers that qualify as nonrecognition of gain or loss transactions under the Internal Revenue Code for entity formation, liquidation or dissolution, and reorganization.

(a) This exemption does not apply to transactions under Internal Revenue Code section 1031 - Exchange of property held for productive use or investment. That section of the Internal Revenue Code does not deal with entity formation, liquidation or dissolution, or reorganization. (See WAC 458-61A-213, IRS "tax deferred" exchanges.)

(b) This exemption does not apply to sales under Internal Revenue Code section 1034 - Rollover of gain on sale of principal residence. That section of the Internal Revenue Code does not deal with entity formation, liquidation or dissolution, or reorganization.

(4) **Treatment when gain is partially recognized in an otherwise exempt transaction.** In the event a transaction qualifies for the exemption under this section as a nonrecognition of gain or loss transaction for entity formation, liquidation or dissolution, or reorganization, but a gain is partially recognized under the Internal Revenue Code provisions, the real estate excise tax applies to the amount of the transaction for which gain is recognized.

(5) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may or may not qualify for exemption under this rule. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) In an otherwise nontaxable Internal Revenue Code section 351 transaction, Nate transfers to ZULU Corporation real property which has a true and fair value of \$100,000. Nate receives, in exchange, ZULU stock worth \$80,000, cash of \$5,000, and a promissory note from ZULU to pay Nate \$15,000 monthly, starting at closing, for 36 months at 6% interest. The \$5,000 cash received and the \$15,000 promissory note constitute "boot" under the provisions of section 351 and gain is recognized to the extent of the "boot." For real estate excise tax purposes, the taxable portion is 20% (\$20,000/\$100,000) and the real estate excise tax applies to 20% of the true and fair value of the real property transferred, or \$20,000.

(b) In an otherwise nontaxable Internal Revenue Code section 351 transaction, Sally transfers real property with a true and fair value of \$50,000, and machinery worth \$250,000, to ECHO Corporation. In exchange, Sally receives ECHO stock worth \$275,000 and cash of \$25,000. The cash received constitutes "boot" and gain is recognized. For real estate excise tax purposes, the nonexempt portion of the transaction is 8.3% (\$25,000/\$300,000). The nonexempt percentage (8.3%) is applied to the true and fair value of the

real property (\$50,000) to arrive at the amount \$4,167. Real estate excise tax is due on \$4,167.

(c) Brenda and Julie are partners in LIMA Partnership. In a nontaxable Internal Revenue Code section 721 transaction, Mike transfers real property to LIMA Partnership in exchange for a partnership interest in LIMA Partnership. No consideration, other than the partnership interest in LIMA Partnership, is given to Mike in exchange for Mike's transfer of real property. Because the transfer is exempt under Internal Revenue Code section 721, the real estate excise tax does not apply to Mike's conveyance of real property to LIMA partnership.

(d) Brenda and Julie are also partners in GOLF Partnership. In a nontaxable Internal Revenue Code section 721 transaction, Mike contributes cash to GOLF Partnership in exchange for a 60% partnership interest in GOLF Partnership. The cash is used by the partnership to develop real property owned by the GOLF Partnership. Because the transfer is exempt under Internal Revenue Code section 721, the real estate excise tax does not apply to Mike's acquisition of a partnership interest in GOLF Partnership.

(6) **Rules of construction.** In determining whether a transfer qualifies for exemption under this section, the department will consider the law, regulations, bulletins, technical memoranda, letter rulings, etc., of the Internal Revenue Code and the Internal Revenue Service, as interpreted by the courts. Determinations of taxability under this chapter will be given the same treatment as the final determination of taxability for federal tax purposes.

NEW SECTION

WAC 458-61A-213 IRS "tax deferred" exchange. (1)

Introduction. This rule describes the application of the real estate excise tax in transfers involving an exchange facilitator. An "exchange facilitator" is a person who acts as an agent on behalf of another person in connection with an exchange of real property under section 1031 of the Internal Revenue Code section 1031 of 1986.

(2) Acquisition of property by an exchange facilitator in connection with a section 1031 tax deferred exchange is subject to the real estate excise tax.

(3) The later transfer of the property by the facilitator in completion of the exchange is subject to real estate excise tax, unless the following requirements are met:

(a) The proper tax was paid on the initial transaction;

(b) A supplemental statement signed by the exchange facilitator, as provided by WAC 458-61A-304, is attached to the real estate excise tax affidavit indicating that the facilitator originally took title to the property for the sole purpose of effecting a section 1031 federal tax deferred exchange; and

(c) The funds used by the exchange facilitator to acquire the property were provided by the grantee and/or received from the proceeds of the sale of real property owned by the grantee.

(4) If the deeds for both transactions to and from the facilitator are being recorded at the same time, the proper tax can be paid on either the first or the second transaction at the discretion of the facilitator.

(5) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a conveyance of real property may or may not qualify for exemption under this rule. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Bob owns commercial real property in Princeton County worth \$400,000. Bob wants to exchange his property in Princeton County for other commercial property in Eagle County owned by Sally. Sally agrees to sell her Eagle County property to Bob for \$600,000. Bob places his commercial property in Princeton County for sale. John contacts Bob and agrees to purchase the Princeton County property for \$450,000. Bob contacts Ted, an exchange facilitator, to arrange for a transfer of his property as a 1031 federal tax deferred exchange. Per Ted's instructions, Bob transfers the Princeton County property to Ted. Ted transfers the Princeton County property to John and receives \$450,000. Real estate excise tax is due on the transfer from Bob to Ted. No tax is due on the transfer from Ted to John. The Eagle County property is transferred from Sally to Ted for the \$600,000 sales price, \$450,000 which was received from the Princeton County sale and \$150,000 from a new loan obtained by Bob. Ted transfers the Eagle County property to Bob. Tax is due on the transfer from Sally to Ted. No tax is due on the transfer from Ted to Bob.

(b) Bob is unable to find a buyer for his Princeton County property. Bob contacts Ted, the exchange facilitator, to arrange for a transfer of his property as a 1031 federal tax deferred exchange. Per Ted's instructions, Bob transfers the Princeton County property to Ted. Ted holds the property until Bob can locate a buyer. Real estate excise tax is due on the transfer from Bob to Ted. The Eagle County property is transferred from Sally to Ted for the \$600,000 sales price, provided from a \$600,000 new loan obtained by Bob. Ted transfers the Eagle County property to Bob. Tax is due on the transfer from Sally to Ted. No tax is due on the transfer from Ted to Bob. One month later, Joan agrees to purchase the Princeton County property. Ted transfers the property to Joan for \$350,000. Tax is due on the transfer from Ted to Joan, because the funds used by Ted to acquire the Princeton County property from Bob were not provided by Joan.

(6) **Documentation.** A real estate excise tax affidavit is required for each transfer in a section 1031 exchange including the transfers to and from an exchange facilitator. The affidavit reflecting the claim for tax exemption must show the affidavit number and date of the tax payment, and have attached the supplemental statement as provided by WAC 458-61A-304 and subsection (3)(b) of this section.

NEW SECTION

WAC 458-61A-214 Nominee. (1) **Introduction.** This rule describes the application of the real estate excise tax in transfers involving a nominee. A "nominee" is a person who acts as an agent on behalf of another person in the purchase of real property.

(2) **Initial acquisition.** The initial acquisition of property by a nominee on behalf of a third party is subject to the real estate excise tax.

(3) **Subsequent transfer.** The later transfer of the property by the nominee to the third party purchaser is subject to real estate excise tax, unless each of the following requirements is met:

(a) The proper tax was paid on the initial purchase of the property by the nominee;

(b) The funds used by the nominee to acquire the property were provided by the third party;

(c) The third party legally existed at the time of the initial transaction; and

(d)(i) The subsequent transfer from the nominee to the third party is not for a greater consideration than that of the initial acquisition; or

(ii) In the case where the nominee is a licensed contractor and the subsequent transfer to the third party (customer) reflects the completed construction contract, the retail sales tax is collected on the construction contract and remitted to the department. See also WAC 458-61A-104.

For example, Sara finds a home to buy. However, she is in the military and has learned she is going to be called to duty out of the country. She gives her money for the home purchase to Tom, who finalizes the purchase and obtains the mortgage in his name. Sara pays the down payment, closing costs, and makes all the payments on the mortgage. When Sara returns from duty, Tom will transfer the home back to her, and she will refinance the mortgage into her own name. Tom's transfer to Sara is exempt from real estate excise tax, as Tom was acting as her nominee in the purchase of the home and all funds associated with the purchase of the home have come from Sara.

(4) If the nominee is a licensed contractor transferring to the third-party principal at the completion of a construction contract, proof of the payment to the department of retail sales tax on the construction contract must be attached to the affidavit.

For example, Bill contracted with Phil's Construction to build a home for him on a lot Phil will acquire. Phil buys a lot from Kevin. Real estate excise tax is paid on the sale from Kevin to Phil. Phil's Construction builds the home and collects retail sales tax on the total construction contract, which is then remitted to the department of revenue. Phil's Construction files a real estate excise tax affidavit with the county, together with proof that retail sales tax has been paid. The transfer of the lot and completed home from Phil's Construction to Bill is exempt from real estate excise tax.

(5) **Documentation.** The parties must provide documentation that they have met all the requirements necessary to claim this exemption. Acceptable documentation includes a notarized statement, dated on or before the date of the initial purchase, that the nominee acquired the property on behalf of the third party, or other documentation clearly demonstrating the requirements of subsection (3) of this section have been satisfied. Such documentation may include, but is not limited to, financial documentation evidencing the nominee/third-party relationship existed from the time of the original transfer, and confirming the source of the funds used to purchase the property.

Examples.

(a) Tom is on title to property. Tom wants to transfer the property to Angie and claim the nominee exemption, but they do not have a notarized statement. In lieu of that statement, Angie presents documentation that she provided the funds for the down payment and all closing costs for the initial purchase of the property. Angie also presents documentation that she provided the funds on the first year's payments on the debt after the initial purchase and provided funds for the last year's payments on the debt. This is acceptable documentation that the requirements of subsection (3) of this section have been satisfied.

(b) Dan wants to buy a house and executes an earnest money agreement, contingent on financing. When he applies for a mortgage he is turned down because of insufficient credit. Dan's Uncle Bob agrees to purchase the house in his name and loans Dan the down payment of \$10,000. Dan signs a promissory note agreeing to repay Uncle Bob. Dan makes all the mortgage payments on the property. After two years, Dan has sufficient credit to refinance the debt in his own name. Uncle Bob quitclaims title to Dan. This transfer meets the nominee exemption requirements because:

(i) Real estate excise tax was paid on the initial transaction;

(ii) The signed earnest money agreement shows Dan's initial intent to purchase the property in his name;

(iii) Dan has made all the payments on the debt; and

(iv) The signed promissory note is sufficient evidence Uncle Bob did not intend to have a financial interest in the property.

(6) The affidavit reflecting the claim for tax exemption must show the prior affidavit and number and date of the tax payment.

NEW SECTION

WAC 458-61A-215 Clearing or exiting title, and additions to title. (1) Introduction. The real estate excise tax does not apply to quitclaim deeds given for the sole purpose of clearing title if no consideration passes otherwise. This rule does not apply to deeds executed for the purpose of adding persons to title, except in cases of persons added to title for co-signing security purposes only.

(2) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a conveyance of real property may or may not qualify for exemption under this rule. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) An exiting minority partner gives the partnership a quitclaim deed for the purpose of removing any presumptive interest. This transfer is exempt from real estate excise tax under this rule.

(b) An heir to an estate gives the estate a quitclaim deed for the purpose of removing any presumptive interest they have in the estate. This transfer is exempt under this rule.

(c) A developer deeds greenbelts, streets or common areas in a development to the homeowners association upon completion of the development and under the terms and cov-

enants of the development. This transfer is exempt under this rule.

(d) Joseph owns a residence and goes to a bank to refinance. His credit is not good enough to obtain the new loan in his name only, but he can qualify if he obtains a co-signor/co-borrower. Joseph's parents agree to co-sign the loan. The bank requests that the parents also go on title with Joseph, and he quitclaims a half interest to his parents. Although the deed may be phrased as a gift to his parents, the deed acts as a security interest for his parents in the event Joseph defaults. The addition of Joseph's parents to the title is exempt under this rule, provided Joseph makes all the mortgage payments, and Joseph receives no consideration from his parents for the transfer.

(e) The parents described in (d) of this subsection who have been on title with their child are now issuing a quitclaim deed to Joseph to exit title. Joseph has now paid off or refinanced the mortgage in his name only. The parents' intention was to go on title as "co-signors" only, not as co-purchasers of the property, and they have not made any payments toward the repayment of the loan. This transfer is exempt under this rule.

(3) **Documentation.** A narrative that explains the nature of the clearance of, or addition to title must be signed by both grantor and grantee, or agents of either, and attached to the real estate excise tax affidavit. The original narrative will be retained with the original affidavit at the county office and a copy of the narrative will be attached to the department's affidavit copy.

NEW SECTION

WAC 458-61A-216 Mortgage insurers. (1) Introduction. The transfer of real property from a mortgage lender to the Veterans Administration or Federal Housing Authority is an exempt transaction.

(2) The transfer of real property from a mortgage lender to another private insurer or guarantor in settlement of an insurance claim is a taxable transaction.

NEW SECTION

WAC 458-61A-217 Rerecord. (1) **Introduction.** The rerecording of documents to correct a legal description, change contract terms, or correct the spelling of the name of a party to the transaction, is not subject to the real estate excise tax.

(2) **Documentation required.** An affidavit is required for the rerecording. The affidavit must refer to the prior affidavit number and the recorded document number for the prior transaction, and must include a complete explanation of why the rerecording is necessary.

COLLECTION AND ADMINISTRATION**NEW SECTION**

WAC 458-61A-300 Collection and administration. Introduction. Real estate excise tax is levied by the state under chapter 82.45 RCW and by counties under chapter 82.46 RCW. The general provisions for the administration of

the state's excise taxes contained in chapter 82.32 RCW apply to the real estate excise tax, except as provided in RCW 82.45.150. This section describes the applicable procedures for payment, collection, disposition of proceeds, requests for refunds, penalties, record keeping requirements, requests for rulings, and other administrative processes.

NEW SECTION

WAC 458-61A-301 Payment of tax, collection responsibility, audit responsibility, and tax rulings. (1) **Tax imposed.** The taxes imposed are due at the time the sale occurs and are collected by the county when the documents of sale are presented for recording or, in the case of a transfer of a controlling interest (see WAC 458-61A-101), by the department. The tax is imposed upon the seller.

(2) **Payment of tax. Scope of section.** This section applies to sales of real property that are evidenced by conveyance, deed, grant, assignment, quitclaim, or transfer of title to real property. See WAC 458-61A-101 for procedures pertaining to transfers or acquisitions of a controlling interest in an entity owning real property in Washington.

(3) **County as agent for state.** Real estate excise tax is paid to and collected by the agent of the county where the property is located (unless the transaction involves the transfer of a controlling interest, in which case the tax is paid to the department).

(4) **Computation of tax.** The tax is computed by multiplying the combined state and local tax rates in effect at the time of sale by the selling price. A current list of the current state and local real estate excise tax rates is available on the department's web site at dor.wa.gov. This information is also available by contacting the county where the property is located.

(5) **Evidence of payment.** The county agent stamps the instrument of sale or conveyance prior to its recording as evidence that the tax has been paid or that an exemption from the tax was claimed. In the case of a used mobile home, the real estate excise tax affidavit is stamped as evidence of payment or a claimed exemption. The stamp references the affidavit number, date, and payment of or exemption from tax, and identifies the person stamping the instrument or affidavit.

(6) **Compliance with property tax statutes.** The county agent will not stamp the instrument of conveyance or affidavit if:

(a) A continuance of use has been applied for but not approved by the county assessor under chapter 84.33 or 84.34 RCW; or

(b) Compensating or additional tax is due but has not been paid as required by RCW 84.33.086, 84.33.140 (5)(c), 84.34.108 (1)(c), 84.36.812, or 84.26.080.

(7) **Prerequisites to recording.** The county auditor will not file or record the instrument of conveyance until all taxes due under this section have been paid or the transfer is determined to be exempt from tax as indicated by a stamped document.

(8) **Evidence of lien satisfaction.** A receipt issued by the county agent for payment of the tax may be used as evidence of satisfaction of a lien imposed under RCW 82.45.-070.

(9) **Audit authority.** All transactions are subject to audit by the department. The department will audit transactions to confirm the proper amount of tax was paid and that any claim for exemption is valid. Failure to provide documentation to the department as requested may result in denial of any exemptions claimed and the assessment of additional tax.

(10) **Tax assessments.**

(a) If the department discovers an underpayment of tax due, it will notify the taxpayer and assess the additional tax due, together with all applicable interest and penalties. The assessment notice will identify the additional tax due and explain the reason for the assessment.

(b) Persons receiving an assessment must respond within thirty days from the date the assessment was mailed. Failure to respond may result in the assessment of additional penalties and interest and enforcement for collection of the deficient tax under the administrative provisions of chapters 82.32 and 82.45 RCW.

(11) **Tax rulings.** Any person may request a written opinion from the department regarding their real estate excise tax liability pertaining to a proposed transfer of real property or a proposed transfer or acquisition of the controlling interest in an entity with an interest in real property. The request should include sufficient facts about the transaction to enable the department to ascertain the proper tax liability. The department will advise the taxpayer in writing of its opinion. The opinion is binding upon both the taxpayer and the department under the facts presented in accordance with WAC 458-20-100(9), appeals, small claims and settlements. To obtain a written opinion, send your a request to:

Department of Revenue
Taxpayer Information & Education
P.O. Box 47478
Olympia, WA 98504-7478

You may also use the "contact" information available online at dor.wa.gov.

(12) **Refunds.**

(a) **Introduction.** Under certain circumstances, taxpayers (or their authorized representatives) may request a refund of real estate excise tax paid. The request must be filed within four years of the date of sale, and must be accompanied by supporting documents.

(b) **Claims for refunds.** Any person having paid the real estate excise tax in error may apply for a refund of the amount overpaid by submitting a completed refund request form.

(c) **Forms and documentation.** Refund request forms are available from the department or the county. The completed form along with supporting documentation is submitted to the county office where the tax was originally paid. If the tax was originally paid directly to the department, the claim form and supporting documentation are submitted to:

Department of Revenue
Miscellaneous Tax Section
P.O. Box 47477
Olympia, WA 98504-7477

(d) **Circumstances under which refunds are authorized.** The authority to issue a refund under this chapter is limited to the following circumstances:

(i) Real estate excise tax was paid on the conveyance back to the seller in a transaction that is completely rescinded (as defined in WAC 458-61A-209);

(ii) Real estate excise tax was paid on the conveyance back to the seller on a sale rescinded by court order. The county treasurer must attach a copy of the court decision to the department's affidavit copy (see also WAC 458-61A-208, Deeds in lieu of foreclosure);

(iii) Real estate excise tax was paid on the initial conveyance recorded in error by an escrow agent before the closing date, provided that the property is conveyed back to the seller;

(iv) Real estate excise tax was paid on the conveyance back to the seller in accordance with (d)(iii) of this subsection;

(v) Real estate excise tax was paid on the initial conveyance recorded before a purchaser assumes an outstanding loan that represents the only consideration paid for the property, provided:

(A) The purchaser is unable to assume the loan; and

(B) The property is conveyed back to the seller. The refund is allowed because there is a failure of the consideration;

(vi) The conveyance back to the seller in (d)(v) of this subsection;

(vii) Double payment of the tax;

(viii) Overpayment of the tax through error of computation; or

(ix) Real estate excise tax paid when the taxpayer was entitled to claim a valid exemption from the tax but failed to do so at the time of transfer.

(e) Responsibilities of county.

(i) Request for refund made prior to disposition of proceeds. If the taxpayer submits a valid refund request to the county before the county treasurer has remitted the tax to the state treasurer, the county may void the receipted affidavit copies and issue the refund directly. The county will then submit a copy of the initial affidavit, together with a copy of the refund request, to the department. If, after reviewing the request for refund and supporting documentation, the county is unable to determine the validity of the request, the county will send the request, a copy of the affidavit, and all supporting documentation to the department for determination. If the county denies the request for refund, in whole or in part, the taxpayer may appeal in writing to the department's miscellaneous tax section within thirty days of the county's denial.

(ii) Request for refund made after disposition of proceeds. If the taxpayer submits the refund request after the county treasurer has remitted the tax to the state treasurer, the county will verify the information in the request and forward it to the department with a copy of the affidavit and any other supporting documents provided by the taxpayer. The county or the department may request additional documentation to determine whether the taxpayer qualifies for a refund.

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.

NEW SECTION

WAC 458-61A-302 Disposition of proceeds and affidavit batch transmittal. (1) Introduction. This rule explains how the counties, the department of revenue, and the state treasurer process the taxes and administrative fees received under this chapter.

(2) County treasurer. The county treasurer distributes the proceeds of the real estate excise tax in accordance with the provisions of chapters 82.45 and 82.46 RCW. When no real estate excise tax is due on a transaction, the county will collect an administrative fee for processing the real estate excise tax affidavit. RCW 82.45.180.

(3) Adjustments. Requests from county treasurers for adjustments to the funds that have been distributed to the state treasurer must be sent to the department for approval or denial. The department will forward to the state treasurer those requests that it approves. If the department denies a request for adjustment, the department will return the request to the county treasurer with an explanation for the denial.

(4) Tax paid directly to the department. Real estate excise tax for transfers of a controlling interest in an entity owning real property in Washington, and any other tax payment under this chapter made directly to the department, are remitted to the state treasurer. The state treasurer deposits the proceeds of the state portion of the tax in the general fund for the support of the common schools. The state treasurer deposits and distributes the proceeds of any local taxes in accordance with the provisions of chapters 82.45 and 82.46 RCW.

(5) Affidavit batch transmittal.

(a) Due date. The county will submit copies of all the real estate excise tax affidavits for the entire month, together with a completed affidavit batch transmittal form, to the department by the fifth business day following the close of the month in which the tax was received. The affidavit batch must include all affidavits processed during the month, plus copies of any documents related to refunds made by the county.

(b) Alternate transmittal method. An alternate method for submitting affidavits may be used in lieu of the paper method described in this rule with the prior approval of the department. Use of an alternate method (e.g., electronic transmittal) requires a signed memorandum of understanding (MOU) between the county and the department.

(c) Distribution. The county will complete the affidavit transmittal form, supplied by the department, and send one copy with the affidavit batch to the department. The county will send a second copy of the affidavit batch transmittal with the monthly cash receipts journal summary to the state treasurer's office as documentation for the remittance of the real estate excise tax deposit.

(d) Reporting of refunds. The county must report any refunds made during the month on the adjustment section provided on the batch transmittal form and attach all refund documentation.

(e) Retention of records. The county treasurer will retain the approved real estate excise tax affidavits, including any supplemental statements, for a period of not less than four years following the year in which the affidavit is received. See RCW 82.45.150 and 82.32.340.

NEW SECTION

WAC 458-61A-303 Affidavit. (1) **Introduction.** This section explains when a real estate excise tax affidavit is required for the conveyance of an interest in property. See WAC 458-61A-101 for procedures pertaining to transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

(2) **Affidavit required.** In general, an affidavit must be filed when ownership or title to real property transfers as evidenced by conveyance, deed, grant, assignment, quitclaim, including, but not limited to, the following:

(a) Conveyance establishing or separating community property, or in fulfillment of a settlement agreement incident to a dissolution of marriage, legal separation, or declaration of invalidity;

(b) Conveyance resulting from a court order;

(c) Conveyance to secure a debt;

(d) Conveyance of a taxable easement;

(e) A deed in lieu of foreclosure of a mortgage;

(f) A deed in lieu or declaration of forfeiture of a real estate contract;

(g) Conveyance to an heir in the settlement of an estate;

(h) Conveyance to or from the United States, the state of Washington, or any political subdivision or municipal corporation of this state;

(i) Conveyance of development rights, water rights, or air rights;

(j) Conveyance of leasehold improvements;

(k) Boundary line adjustments; or

(l) The affidavit must be filed when rerecording a document to correct a minor error, such as the legal description or spelling of a name.

(3) **Affidavit not required.** The real estate excise tax affidavit is not required nor accepted for the following transactions:

(a) Conveyance of cemetery lots or graves;

(b) Conveyance for assignment or release of security, stated on the face of the instrument:

(i) To secure or assign a debt; or

(ii) To provide or release collateral;

(c) A lease of real property that does not transfer lessee-owned improvements;

(d) A mortgage or deed of trust, satisfaction of mortgage, or reconveyance of a deed of trust;

(e) A seller's assignment of deed and contract;

(f) A fulfillment deed pursuant to a real estate contract;

(g) A community property agreement under RCW 26.16.120;

(h) Purchase of an option; or

(i) An earnest money agreement.

(4) **Examples.**

(a) Lionel Construction has developed a group of new homes. It deeds a street to the homeowners' association upon completion of the development. This is done to clear title, which is an exempt transaction. The affidavit should cite the appropriate exemption rule, describe the exemption as "clearing title for street for homeowners' association," and have attached all department-required documentation.

(b) Webb Corporation transfers its interest in a parcel of real property to its wholly owned subsidiary, Watson Com-

pany. This is an exempt transaction because there is no change in beneficial ownership of the property. The affidavit must cite the appropriate exemption rule, describe the exemption as "transfer to wholly owned subsidiary; no change in beneficial ownership," and have attached all documentation required by the department.

(5) **Multiple buyers.** When the transfer of property is to two or more buyers, the affidavit must clearly state the relationship between them as joint tenants, tenants in common, partners, etc., and identify the form and proportion of interest each is acquiring.

(6) **Affidavit must be complete.**

(a) Taxpayers must provide complete and accurate information on the affidavit, as well as all documentation required by the department for claimed tax exemptions. Incomplete affidavits will not be accepted.

(b) An affidavit is incomplete if any required information is omitted or obviously incorrect, such as the use of a nominal selling price. A nominal selling price is an amount stated on the affidavit that is so low in comparison with the fair market value assessment stated on the property tax rolls that it would cause disbelief by a reasonable person. In the case of a nominal selling price, the county assessed value will be used as the selling price, unless there is an independent appraisal showing a greater value.

(7) **Documentation required when claiming an exemption.** Claims of exemption from the real estate excise tax must be specific and include the following:

(a) Current assessed values of parcels involved as of the date of sale; and

(b) Complete reasons for the exemption, including reference to the specific tax exemption in this chapter, citing the specific WAC section and subsection providing the exemption, as well as a brief description of the exemption.

(8) **Completion of affidavit.** The department will provide a real estate excise tax affidavit to be completed by the taxpayer and filed with the agent of the county where the property is located. Affidavits will be furnished by the department to the county agents and accessible to the public in one or more formats to be determined by the department. Alternative forms may be used, as long as they are in a format accepted by the department.

In most instances, the affidavit must be signed by the seller or the seller's agent and the buyer or the buyer's agent, under oath, certifying that all information on the affidavit is complete and correct. However, an affidavit given in connection with the grant of an easement or right of way to a utility company, public utility district or cooperative, or a governmental entity needs to be signed only on behalf of the entity purchasing the utility right of way or easement.

(9) **Duplicate affidavits.** To accommodate the requirement that the affidavit be signed by both the seller and buyer, or agents of each, identical affidavits may be submitted for a single transaction, one bearing the seller's or seller's agent's signature and one bearing the buyer's or buyer's agent's signature. Both affidavits must be complete and have identical information. The county agent will receipt one of the affidavits and attach the other affidavit to the receipted affidavit.

(10) **Retention of records.** The taxpayer must retain all records pertaining to the transaction for a period of at least four years from the date of the conveyance.

NEW SECTION

WAC 458-61A-304 Supplemental statements. (1) The department will provide the county with a uniform multiuse supplemental statement form for use in meeting the requirements of the following sections of this chapter:

(a) WAC 458-61A-306, Interest and penalties—Date of sale;

(b) WAC 458-61A-201, Gifts; and

(c) WAC 458-61A-213, IRS "tax deferred" exchange.

(2) The supplemental statements must be completed and distributed as required by the instructions contained on the form.

(3) Supplemental statements may be unsworn certified statements that meet the requirements set forth in RCW 9A.72.085.

NEW SECTION

WAC 458-61A-305 Trade-in credit. (1) **Introduction.** When a single-family residential property is transferred as either partial or entire consideration for the purchase of another single-family residential property, a credit for the amount of the real estate excise tax paid at the time of the first transfer is allowed toward the amount of the real estate excise tax due upon the later transfer of the same property.

(2) **Refund not available.** The later transfer must be made within nine months of the original transfer for the credit to be allowed. If the tax that would be due on the later transfer is greater than the tax paid for the first transfer, the difference must be paid. However, if the tax paid on the first transfer is greater than that due on the second transfer, no refund of tax paid will be allowed.

(3) The trade-in credit is allowed toward the later sale of the residence "brought in" on trade, not toward the tax liability of the sale of the residence for which it was traded. The affidavit upon which the trade-in credit is claimed must show all of the following:

(a) The transaction date and prior affidavit number where the tax was paid on the original (trade-in) transaction;

(b) The county auditor's recorded document number for the original transaction, if such was recorded; and

(c) The disclosure that both properties involved in the original trade-in transaction are single-family dwellings.

For example, Bob is selling real property in Sun City. Alex wants to buy Bob's property, but he needs to sell his property in Smokey Hollow. Both the Sun City property and the Smokey Hollow property are single-family residential properties. Bob agrees to buy Alex's Smokey Hollow property for \$175,500 and Alex agrees to buy Bob's Sun City property for \$210,000. Real estate excise tax is paid on the full sales price of both properties. Three months later, Bob sells the Smokey Hollow property to Sally for \$180,000. Bob receives a credit on the sale to Sally for the tax paid on the previous sale of the Smokey Hollow property.

NEW SECTION

WAC 458-61A-306 Date of sale, interest, and penalties. (1) **Introduction.** This rule explains how to determine the date of sale and explains the application of interest and penalties when the tax is not paid within one month of the date of sale. See WAC 458-61A-101 for procedures pertaining to transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

(2) **Date of sale.** Real estate excise tax is due and payable to the county on the date of sale, regardless of the date on which the contract of sale or instrument of conveyance is recorded.

(a) **Conditions to be fulfilled prior to completing sale.** When a contract of sale or instrument of conveyance is signed and delivered by the seller to an escrow agent licensed under chapter 18.44 RCW (Escrow Agent Registration Act), a title company, a title insurance company, or an attorney acting as an escrow agent, with instructions to deliver the instrument to the buyer upon the fulfillment of one or more conditions that had prevented the sale from being completed, the date of sale will be presumed to be the date that the instrument is presented for recording, subject to the following:

(i) A statement, signed by the seller's agent, is attached to the affidavit indicating the specific conditions that had to be met in order for the sale to be completed;

(ii) The date shown on the instrument cannot be more than ninety days prior to the date the affidavit is presented to the county treasurer for filing; and

(iii) All documentation required by the department must be provided to the county agent when submitting the affidavit claiming an exemption from interest and penalty pursuant to this rule.

(b) **Sale of mining property.** A conditional sale of mining property in which the buyer has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee-buyer has the right to terminate the lease and option at any time, is taxable at the time of execution only on the consideration received by the seller or lessor for execution of such contract. The tax due on any additional consideration received by the seller is paid to the county at:

(i) The time of termination;

(ii) The time that all of the consideration due to the seller has been paid and the transaction is completed except for delivery of the deed to the buyer; or

(iii) The time when the buyer exercises an option to purchase the property.

For further information regarding mineral rights and mining claims, see WAC 458-61A-112.

(c) In all other cases, the date of sale will be presumed to be the date shown on the instrument. A taxpayer alleging a date of sale other than the instrument date has the burden of proving that delivery of title or ownership of the property in exchange for consideration occurred on the date alleged.

(3) **Interest.** Payment of the real estate excise tax is due on the date of sale. If the tax is not paid within one month of the date of sale, interest will be imposed on the total amount of the unpaid tax (both the state and local components) from the date of sale to the date of full payment. RCW 82.45.100(1) and 82.46.010(5). Interest is calculated on a

monthly basis with a full month's interest accruing at the beginning of each month. A list of annual interest rates is available on the department's web site at dor.wa.gov.

(a) Interest is computed in accordance with the provisions of RCW 82.32.050(2). The interest rate is adjusted annually on January 1. The rate applied to any given month or portion of a month is the annual variable interest rate in effect at the beginning of that month, divided by twelve. Any interest imposed for a month or portion of a month that starts in December will be imposed at the interest rate effective in December, even though the interest rate may change on January 1. For example:

(i) Tyler sold real property located in Mayberry to Dustin on April 20, 2004. Tyler does not file a Real Estate Excise Tax Affidavit until August 15, 2004, at which time he pays \$1,530 in tax. The interest rate for 2004 is 4%, and interest is due on the transfer from April 20, 2004, through August 15, 2004, the date the tax was paid. Interest would be due as follows:

April 20 to May 20, 2004	\$1,530 tax at 0.33% per month	\$5.05
May 21 to June 20, 2004	\$1,530 tax at 0.33% per month	\$5.05
June 21 to July 20, 2004	\$1,530 tax at 0.33% per month	\$5.05
July 21 to August 15, 2004	\$1,530 tax at 0.33% per month	\$5.05
Total interest due with August 15, 2004 payment		\$20.20

In this example, note that a full month's interest applies from July 21 to August 15, 2004, even though it is less than a full month.

(ii) Tara sells her house in Sun City to Chris on March 5, 2004. Real estate excise tax of \$1,780 is due on April 5, 2004, but is not paid until June 16, 2004. Interest applies from March 5, 2004, through June 16, 2004, the date of full payment. Again, a full month's interest applies from June 5 to June 16, 2004, even though it is less than a full month.

March 5 to April 4, 2004	\$1,780 tax at 0.33% per month	\$5.87
April 5 to May 4, 2004	\$1,780 tax at 0.33% per month	\$5.87
May 5 to June 4, 2004	\$1,780 tax at 0.33% per month	\$5.87
June 5 to June 16, 2004	\$1,780 tax at 0.33% per month	\$5.87
Total additional interest due with June 16, 2004 payment		\$23.48

(b) When interest must be calculated in a shorter month that does not have a day corresponding to the original date of sale, interest is computed on the first day of the following calendar month.

For example, Kevin sells land located in unincorporated Sparkle County to Jim and Anita on January 30, 2004. Tax of \$3,560 is due on February 28, 2004. Since February has only twenty-eight days (assuming it is not a leap year) and February 28 most closely corresponds to the January 30 date of sale. The tax is not paid until May 10, 2004. The interest is computed as follows:

January 30 to February 28, 2004	\$3,560 tax at 0.33% per month	\$11.75
March 1 to March 30, 2004	\$3,560 tax at 0.33% per month	\$11.75
March 31 to April 30, 2004	\$3,560 tax at 0.33% per month	\$11.75
May 1 to May 10, 2004	\$3,560 tax at 0.33% per month	\$11.75
Total interest due with May 10, 2004 payment		\$47.00

(4) **Delinquent penalty.** If payment of real estate excise tax is not received by the county within one month of the date of sale, a delinquent penalty is imposed on the total amount of the unpaid tax. RCW 82.45.100(2) and 82.46.010(5).

(a) If tax is not paid:

(i) Within one month of the date of sale, a penalty of five percent of the amount of the tax will be added to the tax due;

(ii) Within two months of the date of sale, a penalty of ten percent shall be added to the tax due; and

(iii) Within three months of the date of sale, a penalty of twenty percent will be added to the tax due.

(b) Penalties are assessed against the seller only and will not be included in a lien arising under RCW 82.45.070.

(5) **State assessment penalty.** Any tax determined to be due and assessed by the department will include an assessment penalty of five percent of the tax assessed by the department. RCW 82.32.090(2).

(a) If payment of the tax assessment is not received by the department by the due date specified in the notice, or any extension thereof, a penalty of fifteen percent of the amount of the tax under this subsection will be assessed; and

(b) If payment of the tax assessment is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, a penalty of twenty-five percent of the amount of the tax under this subsection will be assessed; and

(c) This penalty will be no less than five dollars.

(6) **Evasion penalty.**

(a) The department may add a penalty equal to fifty percent of the underpaid excise tax due on transfers where an intent to evade the payment of the excise tax is demonstrated.

(b) An "intent to evade" includes, but is not limited to, knowingly stating a false sales price or knowingly claiming a tax exemption for which the transfer does not qualify.

WSR 05-23-099
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed November 17, 2005, 10:39 a.m., effective December 18, 2005]

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

Purpose: This rule change implements a within I-601 fee increase for 2.82% and allows an initial applicant the ability to request, prior to licensure, options for withdrawal of an application and a refund for WAC 246-337-990 Residential treatment facilities. The fee increase will allow the residential treatment facility program to continue their current level of public health activities such as licensing, surveys and complaint investigations during fiscal year 2006.

Citation of Existing Rules Affected by this Order: Amending WAC 246-337-990.

Statutory Authority for Adoption: RCW 43.70.250.

Adopted under notice filed as WSR 05-19-052 on September 15, 2005.

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 1, Repealed 0.

Date Adopted: November 14, 2005.

M. C. Selecky
 Secretary

AMENDATORY SECTION (Amending WSR 05-15-157, filed 7/20/05, effective 8/20/05)

WAC 246-337-990 Licensing fees. A licensee must submit the following fees to the department:

FEE TYPE	AMOUNT
Administrative processing/ initial application fee	\$150.00
License bed fee (per bed)	\$((136-10)) 139.90
Annual renewal fee (per bed)	\$((136-10)) 139.90
Late fee (per bed)	\$25.00 (up to \$500.00)
Follow-up compliance survey fee or a complete on-site survey fee resulting from a substantiated complaint	\$1000.00

~~((If a written request is submitted for withdrawal after the department has begun the licensure review process, but before licensure, the department may refund any portion of the fees not consumed by departmental action taken prior to~~

~~the request for withdrawal.)) (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 05-23-100
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed November 17, 2005, 10:41 a.m., effective December 18, 2005]

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

Purpose: The HIV client services program of the Department of Health is revising chapter 246-130 WAC to achieve two goals:

1. Establish rules as authorized under RCW 43.70.670.
2. Update and clarify the language of the WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-130-028; and amending WAC 246-130-001, 246-130-010, 246-130-020, 246-130-030, 246-130-040, 246-130-045, 246-130-060, 246-130-080, and 246-130-090.

Statutory Authority for Adoption: RCW 43.70.670.

Adopted under notice filed as WSR 05-18-072 on September 7, 2005 [2005].

Changes Other than Editing from Proposed to Adopted Version: Based on comments from key stakeholders, one definition and a reference to Basic Health were eliminated and the name of the Medicare PDP program was changed.

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 1, Amended 8, Repealed 1.

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 8, Repealed 1.

Date Adopted: December 23, 2005.

Mary C. Selecky
Secretary

Chapter 246-130 WAC

~~((HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION INTERVENTIONS))~~ EARLY INTERVENTION PROGRAM

AMENDATORY SECTION (Amending WSR 00-19-117, filed 9/20/00, effective 10/21/00)

WAC 246-130-001 **What is the ~~((HIV))~~ early intervention program?** The early intervention program of HIV client services' mission is to reduce the transmission and medical consequences of HIV by assuring that persons eligible for the early intervention program in Washington have access to available health care and supportive services.

The early intervention program provides treatment of HIV infection to eligible clients based on available funds. The department provides these early intervention services to improve ~~((the))~~ public health by treating people living with HIV, its complications, and side effects of HIV treatment, and in order to decrease the risk of clients with HIV infecting others. Information on how to contact this program is in WAC 246-130-090.

AMENDATORY SECTION (Amending WSR 00-19-117, filed 9/20/00, effective 10/21/00)

WAC 246-130-010 **What definitions ~~((do we))~~ does the early intervention program use?** The following words and phrases have the following meaning in chapter 246-130 WAC:

(1) **"AIDS"** means acquired immunodeficiency syndrome.

(2) **"Applicant"** means a person applying for early intervention program services.

(3) **"Benefits manager"** means:

(a) The pharmacy benefits manager contracted with the department to provide prescription drug claim processing and formulary management services; or

(b) The insurance benefits manager contracted with the department to provide insurance premium assistance through the HIV insurance program and the Medicare premium assistance program.

(4) **"Client"** means a person ~~((determined to be))~~ who the department determines is currently eligible ~~((by the department))~~ for early intervention program services.

~~((4))~~ (5) **"Department"** means the Washington state department of health.

~~((5))~~ (6) **"Early intervention program services"** means medically necessary treatment and services that reduce the rate of progression of HIV infection and HIV transmission. This includes behavioral risk reduction interventions. See WAC 246-130-020 for details.

~~((6))~~ (7) **"Federal poverty level"** means the official income level for poverty released by the federal government each year in February.

~~((7))~~ (8) **"Formulary"** means the list of prescription drugs that the early intervention program will pay for. To obtain a copy of that list, see WAC 246-130-090.

~~((8))~~ (9) **"HIV"** means human immunodeficiency virus as defined in RCW 70.24.017(7).

(10) **"HIV insurance program"** means the program that provides health insurance coverage for individuals with HIV who are not eligible for medical assistance programs from the department of social and health services. Medical assistance program is defined in RCW 74.9.010(8). Individuals must meet the eligibility requirements established by the department.

~~((9))~~ **"Medical assistance administration (MAA)"** means the part of the department of social and health services responsible for operating the state's Medicaid and related medical programs.

~~((10))~~ (11) **"Medicare premium assistance"** means the program that pays premiums, co-payments and deductibles for department clients receiving Medicare and enrolled in the prescription drug program.

(12) **"Provider"** means a health care professional contracted by the department to supply ~~((pharmaceutical))~~ medical, dental, or laboratory services to a client.

~~((11))~~ (13) **"Schedule of services"** means the department's list of medical, dental, and laboratory services covered by its early intervention program. To obtain a copy of that list, see WAC 246-130-090.

~~((12))~~ (14) **"Standard of care"** means treatment for HIV that is commonly accepted by the local medical community.

~~((13))~~ (15) **"Steering committee"** means the department's ~~((HIV))~~ early intervention steering committee. This advisory committee serves at the pleasure of the ~~((DOH))~~ department secretary ~~((per))~~ in accordance with RCW 43.70.040(2)(c). The committee consists of Washington state residents living with HIV ~~((and))~~, HIV medical experts, and representatives from community organizations~~((and))~~. The steering committee advises the department on its early intervention program. ~~((Its bylaws are available from the department per WAC 246-130-090.))~~

AMENDATORY SECTION (Amending WSR 00-19-117, filed 9/20/00, effective 10/21/00)

WAC 246-130-020 **What early intervention program services are available?** Services to treat HIV are available from the department, based on available funding, to eligible clients as described in this section.

(1) The department decides what specific medical, laboratory, dental, ~~((and))~~ prescription medication and insurance services to cover after actively consulting with its steering committee and considering:

(a) Support of the steering committee ~~((, which represents clients and local medical HIV/AIDS communities));~~

(b) FDA approval ~~((f))~~ for prescription medications~~((s));~~

(c) ~~((Recognition))~~ Standard of care recognized by the medical community ~~((as a standard of care));~~

(d) Effectiveness in treatment for HIV, complications of HIV, side effects of current treatments for HIV or support for HIV treatment adherence; and

(e) Relative cost of services.

(2) The early intervention program services described in this section are available to all clients, unless they receive those services from other sources. Specific services of this section are available for a client only when medically necessary to treat HIV and associated diseases, complications of treating HIV, or support for HIV treatment adherence.

(3) Specific covered medical, laboratory, and dental services are listed in the department's "schedule of services."

(4) Prescription drugs covered are listed in the department's "early intervention drug formulary."

(5) ~~((Covered health))~~ HIV insurance program includes:

(a) Premium payment ~~((-including COBRA premiums))~~ or assistance as authorized in RCW 43.70.670;

(b) Deductible payment up to ~~((five hundred dollars per))~~ a limit determined by the early intervention program within a twelve-month period; and

(c) Co-pay payment for third-party insurance ~~((-except basic health plan;))~~ as follows:

(i) The percentage of prescription medication costs covered by the department and not covered by third-party insurers; and

(ii) Fixed dollar co-pay required by a client's third-party insurance plan for prescription medication covered by the early intervention program.

~~((d)) For basic health plan enrollees, the department pays the percentage of prescription medication expenses not covered by the basic health plan but covered by the department's early intervention program formulary.))~~

(6) Medicare premium assistance will pay premiums, co-payment and deductibles for early intervention program clients on Medicare who request assistance for the prescription drug program.

(7) The department may also coordinate other services to treat HIV and AIDS. These are available as funding and contracting permit. For example, as of July 1, 2000, the department may pay toward the spend-down for ~~((MAA))~~ medically needy (MN) clients who are also ~~((DOH))~~ early intervention program clients ~~((- up to one thousand one hundred dollars per month)).~~

~~((7))~~ (8) The early intervention program will provide written notification to clients, providers, and the steering committee at least thirty days in advance of any reduction in service or payments.

(9) You may contact the department per WAC 246-130-090 to make comments on service coverage or to receive information.

AMENDATORY SECTION (Amending WSR 00-19-117, filed 9/20/00, effective 10/21/00)

WAC 246-130-030 How ~~((do we))~~ does the early intervention program pay a provider((s)) or benefits manager? The department pays a provider((s)) or benefits manager for covered services delivered to clients, as limited by this section.

(1) The department pays a provider((s)) or benefits manager who contracts with the department for services described in WAC 246-130-020.

(a) The department will only pay for services delivered by a contracted provider or benefits manager.

~~(b) ((Services must be billed within one hundred eighty days of being provided.~~

~~(2))~~ A provider or benefits manager must bill the department according to the procedure and terms of the contract.

(c) The department only pays for covered, medically necessary early intervention program services delivered to clients who are eligible under WAC 246-130-040.

~~((3))~~ (2) Payment of services depends on availability of federal and state funds. The department will not deny payment of any individual claim for funding availability unless the department denies an entire class of claims, or an entire program.

~~((a)) Providers and clients will receive written notice of any limitation or reduction in coverage or payment that results from loss of federal or state funding at least thirty days in advance.~~

~~(b) If the department denies or reduces payment for any class of claims or program, it must only show that it made a good faith effort to mail written notice to all providers and clients.~~

~~(4))~~ (3) A provider((s)) or benefits manager who disputes a payment may do so through the contracts process ~~((- See))~~ specified in WAC 246-130-080(3).

~~((5)) Providers must bill the department per terms of the contract between the provider and department.~~

~~(6))~~ (4) The department is payer of last resort.

(a) A provider((s)) or benefits manager must bill all other third-party sources prior to billing the department for covered services ~~((;))~~; and

(b) A provider((s)) or benefits manager must reimburse the department for any funds paid by the department, which ~~((are payable))~~ were actually reimbursed by other sources.

AMENDATORY SECTION (Amending WSR 00-19-117, filed 9/20/00, effective 10/21/00)

WAC 246-130-040 How do persons with HIV become eligible? (1) The department ~~((determines))~~ establishes the criteria for determining client eligibility for ~~((its))~~ the early intervention program ~~((per this section. Beginning the month that the applicant's completed application was postmarked;))~~ by consulting with the early intervention steering committee and other interested parties. The department reviews each client's application against the criteria set out in this section.

(2) An applicant is eligible for twelve months of early intervention program services ~~((when))~~ beginning the first of the month that the applicant's completed application was postmarked.

(3) The department requires the following documentation:

(a) ~~((The applicant has))~~ A medical diagnosis of HIV ~~((the department may require a doctor's diagnosis));~~

(b) ~~((The applicant has))~~ A Washington state address ~~((and intends to stay in Washington state));~~

(c) ~~((The applicant or his/her designated representative has submitted truthful information on the department's application form to the department;~~

~~((d) The applicant has monthly)) Verification of income, ((averaged over twelve months,)) that is equal to or less than the limit set by ((DOH in consultation with)) the early intervention program ((steering committee. For example: In 2000, that limit was three hundred seventy percent of Federal Poverty Level for one person (\$2,575) per month. The department shall announce and seek public comment on proposed changes to the income limit)). Income includes:~~

- (i) Wages, salary, overtime, tips, and bonuses;
- (ii) Social Security, trust funds for disability, or other disability insurance payments;
- (iii) Unemployment benefits;
- (iv) Veteran's Administration benefits;
- (v) Lump sum payments of gifts, cash inheritance, property, lottery winnings, worker's compensation for lost income, or severance pay;
- (vi) Private pensions, annuities, or royalties; and
- (vii) Investment dividends.

~~((e))~~ (4) The ((applicant has)) department also considers the following when determining client eligibility:

(a) Client resources: A client must have current resources of less than ((ten thousand dollars)) or equal to the limit set by the early intervention program. Resources include trust funds, and any other financial resources available to the applicant. The department does not count the following as resources:

- (i) One home, defined as real property owned by the client as his or her principal place of residence in Washington state, together with surrounding property not to exceed five acres;
- (ii) Commercial property, or property used for producing income, up to the first twenty thousand dollars of value;
- (iii) Household furnishings;
- (iv) One automobile; or
- (v) Pensions and other Internal Revenue Service designated retirement accounts; or

~~((f) The applicant is not currently eligible for or cannot access))~~ (vi) Burial plots or prepaid funeral arrangements.

(b) Client ineligibility for medical benefits ((from)) through the department of social and health services((=and

~~(g) The applicant is not currently an inmate of any correctional institute or jail or will not be when their application is approved.~~

~~(2) Periods of eligibility caused by false information may cause the department to:~~

~~(a) Disenroll a client from the department's early intervention program; and~~

~~(b) Recover funds paid by the department during periods of false eligibility).~~ If a client is eligible for medical benefits through the department of social and health services, he or she may not qualify for the early intervention program, except when the department is coordinating other services as specified in WAC 246-130-020(6).

(5) Individuals transitioning from any correctional institute are eligible for service that will assist them to access medication once they are released from the facility.

(6) Refer to the HIV client services web page through DOH WEB (A-Z) at www.doh.wa.gov.

NEW SECTION

WAC 246-130-045 Does an early intervention program client need to notify the department of any changes in their eligibility? (1) Clients must notify the department of any changes that affect their eligibility within twenty days of the change.

(2) Clients who do not notify the department of changes may be disenrolled and required to repay the funds spent on their services.

(3) Clients may be disenrolled from the program if they provide false information.

AMENDATORY SECTION (Amending WSR 00-19-117, filed 9/20/00, effective 10/21/00)

WAC 246-130-060 ((What)) Is information ((is required for client eligibility, and will it be)) kept confidential? ~~((An applicant seeking early intervention program services must apply to the department.~~

~~(4)) Applicant and client information supplied to the ((department)) early intervention program is confidential. The early intervention program follows all applicable state and federal laws regarding the exchange of medical information.~~

~~((2) Applicants must provide medical and financial information at the department's request, including:~~

~~(a) Sources and amounts of all income and resources;~~

~~(b) Evidence that all resources or entitlements available to an applicant were accessed before that applicant applied for or received early intervention program services; and~~

~~(c) Other medical or financial information.~~

~~(3) Clients must notify the department of medical or financial changes that affect their eligibility within twenty days of the change. Clients who do not notify the department of medical or financial changes must pay back to the department funds provided during the period of ineligibility caused by those changes.)~~

AMENDATORY SECTION (Amending WSR 00-19-117, filed 9/20/00, effective 10/21/00)

WAC 246-130-080 What do clients do if they disagree with the department's decision about their eligibility or coverage? Applicants and clients may appeal any decision by the department about their early intervention program eligibility or coverage.

(1) Chapter 246-10 WAC details the ~~((adjudicated proceeding))~~ adjudication process for matters involving receipt of benefits. The department will provide information on the cause for denied benefits, how a proceeding may be requested, the forms necessary to request a proceeding and information on required time frames.

(2) Applicants and clients may not appeal the department's denial or limitations when the department ~~((closes))~~ discontinues or limits an early intervention program service ~~((due))~~ to either funding availability or federal or state law or rule changes. See WAC 246-130-030(3) for more details.

(3) Rate and payment disputes between a provider((s)) or benefits manager and the department are handled by contract.

(4) Clients of any other public agency must use that agency's process to resolve eligibility or other disputes regarding that agency. ~~((MAA's fair hearings process is described in chapter 388-08 WAC.))~~

AMENDATORY SECTION (Amending WSR 00-19-117, filed 9/20/00, effective 10/21/00)

WAC 246-130-090 How do I contact the department? For information or application, contact:

Department of Health
Client Services
P.O. Box 47841
Olympia, WA 98504-7841
Telephone ~~((1-800-272-2437))~~ 1-877-376-9316 Option

2

Or, visit the WEB site at www.doh.wa.gov. ~~((Clicking on "HIV Information" accesses information about the early intervention program.))~~ Locate HIV client services through the "DOH WEB (A-Z)" at www.doh.wa.gov.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-130-028 What services are not available?

WSR 05-23-101
PERMANENT RULES
DEPARTMENT OF HEALTH
(Board of Denturists)

[Filed November 17, 2005, 10:41 a.m., effective January 1, 2006]

Effective Date of Rule: January 1, 2006.

Purpose: RCW 18.30.065 (HB 2309, section 5, chapter 160, Laws of 2002) required the Board of Denturists (board) to adopt rules for continuing competency requirements as a condition of license renewal. The rule clarifies what activities and coursework the board will accept to fulfill the continuing competency requirements.

Statutory Authority for Adoption: RCW 18.30.065.

Adopted under notice filed as WSR 05-17-048 on August 9, 2005.

A final cost-benefit analysis is available by contacting Vicki Brown, Department of Health, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4865, fax (360) 664-9077, e-mail vicki.brown@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 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 1, Amended 0, Repealed 0.

Date Adopted: September 30, 2005.

Bruce C. Anderson, Chair
Board of Denturists

NEW SECTION

WAC 246-812-020 Continuing competency requirements. (1) Purpose. The board in agreement with the secretary of the department of health has determined that the public health, safety and welfare of the citizens of the state will be served by requiring all denturists, licensed under chapter 18.30 RCW, to continue their professional development via continuing competency after receiving their licenses.

(2) Effective date. The effective date for the continuing competency requirements for denturists is January 1, 2006. The reporting cycle for verifying completion of continuing competency hours will begin on January 1, 2008, and each renewal date thereafter.

(3) Requirements. A licensed denturist must complete thirty clock hours of continuing competency, every two years, prior to his or her biennial renewal date. The licensee must sign a declaration attesting to the completion of the required number of hours as part of the biennial renewal requirement. The department of health may randomly audit up to twenty-five percent of practitioners for compliance with these rules, after the credential is renewed as allowed by chapter 246-12 WAC, Part 7.

(4) Acceptable continuing competency—Qualification of courses for continuing competency credit. The board will not authorize or approve specific continuing competency courses. Continuing competency course work must contribute to the professional knowledge and development of the practitioner, or enhance services provided to clients.

For the purposes of this chapter, acceptable continuing competency means courses offered or authorized by industry recognized state, local, private, national and international organizations, agencies or institutions of higher learning. Examples of sponsors or types of continuing competency courses include, but are not limited to:

(a) Courses offered or sponsored by the Washington State Denturist Association.

(b) Basic first aid, cardio pulmonary resuscitation, basic life support, advanced cardiac life support, or emergency related training such as courses offered or authorized by the American Heart Association, the American Cancer Society; training offered or sponsored by Occupational Safety and Health Administration (OSHA) or Washington Industrial Safety and Health Act (WISHA); or any other organizations or agencies.

(c) All forms of educational media related to denturism, available through internet, mail or independent reading, that

include an assessment tool upon completion, may not exceed ten hours for the two-year period.

(d) A licensee who serves as a teacher or who lectures in continuing competency programs and/or courses, that contribute to the professional competence of a licensed dentist may accumulate the same number of hours obtained by licensed dentists attending the program and/or course may not exceed sixteen hours for the two-year period.

(e) Attendance at a continuing competency program with a featured speaker(s) may not exceed sixteen hours for the two-year period.

(f) Time spent preparing an original technical or clinical article for a professional publication may not exceed twelve hours for the two-year period.

(g) Nonclinical courses relating to dentist practice organization and management, patient management, or methods of health delivery may not exceed eight hours for the two-year period.

(h) Estate planning, financial planning, investments, and personal health courses are not acceptable.

(5) The board may disallow any claim of credit for a continuing competency course that does not meet the requirements of subsection (4) of this section.

(6) Failure to complete the continued competency requirements by time of license renewal, or failure to provide adequate documentation of completion, is grounds for denying renewal of his or her license until such time as the licensee demonstrates compliance.

(7) Documentation required. Credit for a continuing competency course may not be claimed by a licensee unless the course organizer provides the licensee with documentation of course attendance.

(8) Exceptions. The following are exceptions from the continuing competency requirements:

Upon a showing of good cause by the licensee, the board may waive the licensee from any, all, or part of the continuing competency requirements in this chapter or may grant additional time for the licensee to complete the requirements. Good cause includes, but is not limited to:

- (a) Illness;
- (b) Medical necessity or family emergency;
- (c) Hardship to practice; or
- (d) Other extenuating circumstances.

(9) The requirements of this section are in addition to the requirements in chapter 246-12 WAC, Part 7, related to continuing competency.

WSR 05-23-103

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed November 17, 2005, 2:19 p.m., effective July 1, 2006]

Effective Date of Rule: July 1, 2005 [2006].

Purpose: The state Building Code Council has adopted an emergency rule modification to section 1423 when it was determined that language adopted previously would cause undue expense for residential systems. This rule adopts that language as a permanent rule.

Citation of Existing Rules Affected by this Order:
Amending WAC 51-11-1423.

Statutory Authority for Adoption: RCW 19.27A.025 and 19.27A.045.

Other Authority: Chapters 19.27, 19.27A and 34.05 RCW.

Adopted under notice filed as WSR 05-17-011 on August 4, 2005.

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 1, Repealed 0.

Date Adopted: November 4, 2005.

John P. Neff
Council Chair

AMENDATORY SECTION (Amending WSR 05-01-013, filed 12/2/04, effective 7/1/05)

WAC 51-11-1423 Economizers. Economizers meeting the requirements of Section 1413 shall be installed on:

a. Cooling units installed outdoors or in a mechanical room adjacent to outdoors having a total cooling capacity greater than 20,000 Btu/h including those serving computer server rooms, electronic equipment, radio equipment, telephone switchgear; and

b. Other cooling units with a total cooling capacity greater than 54,000 Btu/h, including those serving computer server rooms, electronic equipment, radio equipment, and telephone switchgear.

Exception: For Group R Occupancy, economizers meeting the requirements of Section 1413 shall be installed on single package unitary fan-cooling units having a total cooling capacity greater than 54,000 Btu/h.

The total capacity of all units without economizers (i.e., those units with a total cooling capacity less than a. and b. above) shall not exceed 240,000 Btu/h per building, or 10% of its aggregate cooling (economizer) capacity, whichever is greater. That portion of the equipment serving Group R Occupancy is not included in determining the total capacity of all units without economizers in a building.

WSR 05-23-104
PERMANENT RULES
BUILDING CODE COUNCIL

[Filed November 17, 2005, 2:20 p.m., effective January 1, 2006]

Effective Date of Rule: January 1, 2006.

Purpose: The proposed rule updates the definitions for model code, model code organization, and state building code; clarifies procedures for local amendment review in regard to documentation; established a schedule of adoption for statewide amendments; and updates contact information.

Citation of Existing Rules Affected by this Order: Amending WAC 51-04-015, 51-04-020, 51-04-030, 51-04-035, 51-04-040, and 51-04-070.

Statutory Authority for Adoption: RCW 19.27.190 and 19.27.020.

Other Authority: Chapters 19.27 and 34.05 RCW.

Adopted under notice filed as WSR 05-17-008 on August 4, 2005.

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 3, 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: November 4, 2005.

John C. Neff
Council Chair

AMENDATORY SECTION (Amending WSR 04-01-107, filed 12/17/03, effective 7/1/04)

WAC 51-04-015 Definitions. (1) "Supplements and accumulative supplements" mean the publications between editions of the model codes and standards which include changes to the current edition of the model codes and standards.

(2) "Council" means the Washington state building code council.

(3) "Emergency statewide amendment" means any proposed statewide amendment, the adoption of which is necessary immediately in order to protect life, safety or health of building occupants; preserve the structural integrity of buildings built to the state building code; to correct errors and omissions; or by the direction of the Washington state legislature or federal legislation. Emergency statewide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(4) "Local government amendment" means any amendment to the state building code, as adopted by cities or coun-

ties for implementation and enforcement in their respective jurisdictions.

(5) "Local government residential amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions, that applies to single and multifamily buildings as defined by RCW 19.27.015.

(6) "Model codes" means the codes developed by the model code organizations and adopted by and referenced in chapter 19.27 RCW.

(7) "Model code organization(s)" means the national code-promulgating organizations that develop the model codes (as defined herein), such as the International Code Council, International Association of Plumbing and Mechanical Officials, and National Fire Protection Association.

(8) "State building code" means the ((~~International Building Code including regulations for accessibility; the International Residential Code; the International Mechanical Code except that the standards for liquefied petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquefied Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code); the International Fire Code including those standards of the National Fire Protection Association specifically referenced in the International Fire Code; the Uniform Plumbing Code and Standards, as designated~~)) codes adopted by and referenced in chapter 19.27 RCW ((~~19.27.031~~)); the state energy code; and any other codes so designated by the Washington state legislature as adopted and amended by the council.

((~~7~~)) (9) "Statewide amendment" means any amendment to the building code, initiated through council action or by petition to the council from any agency, city or county, or interested individual or organization, that would have the effect of amending the building code for the entire state of Washington. Statewide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

((~~8~~)) (10) "State building code update cycle" means that period during which the model code and standards referenced in chapter 19.27 RCW are updated and amended by the council in accordance with the Administrative Procedure Act, chapter 34.05 RCW hereinafter referred to as the "adoption period" and those additional periods when code changes are received for review as proposed amendments to the model codes, hereinafter referred to as "submission periods."

((~~9~~)) "~~Model codes~~" means the ~~International Building, Residential, Mechanical, and Fire Codes and the Uniform Plumbing Code as published by the International Code Council and the International Association of Plumbing and Mechanical Officials respectively.~~)

AMENDATORY SECTION (Amending WSR 04-01-107, filed 12/17/03, effective 7/1/04)

WAC 51-04-020 Policies for the consideration of proposed statewide amendments. Statewide and emergency statewide amendments to the state building code should be based on one of the following criteria:

(1) The amendment is needed to address a critical life/safety need.

(2) The amendment is needed to address a specific state policy or statute.

(3) The amendment is needed for consistency with state or federal regulations.

(4) The amendment is needed to address a unique character of the state.

(5) The amendment corrects errors and omissions.

Statewide and emergency statewide amendments to the state building code shall conform to the purposes, objectives, and standards prescribed in RCW 19.27.020.

The council will accept and consider petitions for emergency statewide amendments to the building code at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW.

The council will accept and consider all other petitions for statewide amendments in conjunction with the state building code update cycle, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020 as follows:

The state building code council shall ~~((identify a submission period of at least thirty days when revisions to the state building code may be submitted))~~ publicize the state building code amendment process in January of each year. Proposed state amendments must be received by March 1 to be considered for adoption by December 1. The state building code council shall review all ~~((submissions and accept))~~ proposed statewide amendments and file for future rule making those ~~((revisions favorably reviewed. Submissions must be received by March 1 to be considered for adoption by December 1 in any year. Revisions accepted))~~ proposals approved as submitted or as amended by the council. State amendments as approved by the council shall be submitted to the ~~((International Code Council and the International Association of Plumbing and Mechanical Officials, respectively, as proposed revisions to the model codes (unless recently considered as amendments)))~~ appropriate model code organization, at the direction of the council, except those adopted for consistency with state statutes or regulation and held for further review during the adoption period of those model codes by the council. The effective date of any statewide amendments shall be the same as the effective date of the new edition of the model codes, except for emergency amendments adopted in accordance with chapter 34.05 RCW and deemed appropriate by the council.

The adoption period of new model codes commences upon availability of the publication of the new edition of the model codes ~~((by the International Code Council and the International Association of Plumbing and Mechanical Officials,))~~ and concludes with formal adoption of the ~~((revised))~~ building code as amended by the council and final review by the state legislature. For the purposes of this section, the publication of supplements shall not be considered a new edition. ~~((At the beginning of the adoption period, the state building code council shall identify a limited submission period of at least thirty days. During this period,))~~ The council will ~~((receive revisions proposed))~~ consider state amendments to:

The model codes provided that the proposed ~~((revisions))~~ amendments shall be limited to ~~((revisions which))~~ address changes in the model codes since the previous edition~~((-~~

~~The state building code which))~~; or address~~((es))~~ existing statewide amendments to the model codes~~((-~~

~~The state building code which))~~; or address~~((es))~~ portions of the state building code other than the model codes.

~~((In addition, the state building code council shall review for adoption those proposed revisions to the model code accepted after preliminary review in those submission periods since the last adoption period. The state building code council shall consider the action of the International Code Council and the International Association of Plumbing and Mechanical Officials, respectively, in their consideration of these proposals.))~~ The state building code council shall consider the action of the model code organizations in their consideration of these proposals.

Within sixty days of the receipt of the new edition of the model codes the council shall enter rule making to update the state building code.

AMENDATORY SECTION (Amending WSR 04-07-193, filed 3/24/04, effective 7/1/04)

WAC 51-04-030 Policies for consideration of proposed local government residential amendments. All amendments to the building code, as adopted by cities and counties for implementation and enforcement in their respective jurisdictions, that apply to single and multifamily buildings as defined by RCW 19.27.015, shall be submitted to the council for approval.

The council shall consider and approve or deny all proposed local government residential amendments to the building code within ninety days of receipt of a proposal, unless alternative scheduling is agreed to by the council and the proposing entity.

All local government residential amendments to the building code that require council approval shall be submitted in writing to the council, after the city or county legislative body has adopted the amendment and prior to implementation and enforcement of the amendment by the local jurisdiction. All local amendments submitted for review shall be accompanied by findings of fact adopted by the governing body of the local jurisdiction justifying the adoption of the local amendment in accordance with the five criteria noted below in this section.

It is the policy of the council to encourage joint proposals for local government residential amendments from more than one jurisdiction. Local government residential amendments submitted to the council for approval should be based on:

- (1) Climatic conditions that are unique to the jurisdiction.
- (2) Geologic or seismic conditions that are unique to the jurisdiction.
- (3) Environmental impacts such as noise, dust, etc., that are unique to the jurisdiction.
- (4) Life, health, or safety conditions that are unique to the local jurisdiction.
- (5) Other special conditions that are unique to the jurisdiction.

EXCEPTIONS: Appendices or portions thereof that have the effect of amending the uniform codes, that do not conflict with the building code for single and multifamily residential

buildings as defined by RCW 19.27.015, may be adopted by local jurisdictions without council review or approval.

Local government residential amendments to (~~(1) Chapter 1, 17, or 34 of the International Building Code;~~
~~(2) Chapter 1 of the International Residential Code;~~
~~(3) Chapter 1 of the International Mechanical Code;~~
~~(4) Chapter 1 of the International Fire Code;~~
~~(5) Chapter 1 of the Uniform Plumbing Code;~~
~~(6) Chapter 1 or 11 of the State Energy Code; or~~
~~(7) Chapter 1 of the Ventilation and Indoor Air Quality Code)) administrative provisions (departmental operational procedures) contained within the state building code need not be submitted to the Council for review and approval provided that such amendments do not (~~diminish~~) alter the construction requirements of those chapters.~~

Those portions of the supplement or accumulative supplements that affect single and multifamily residential buildings as defined by RCW 19.27.015 that are not adopted by the council shall be submitted to the council for consideration as local government residential amendments to the building code.

Local government residential amendments shall conform to the limitations provided in RCW 19.27.040.

AMENDATORY SECTION (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

WAC 51-04-035 Procedure for submittal of proposed local government residential amendments. All proposed local government residential amendments to the state building code shall be submitted in writing to the council, on a form provided by the council, along with (~~a statement of need~~) findings of fact as required in WAC 51-04-030 for the proposed amendment. Local government residential amendments to administrative provisions (departmental operational procedures) contained within the state building code need not be submitted to the council for review and approval provided that such amendment does not affect the construction requirements of those chapters.

The council shall accept and consider all applications for review of local government residential amendments submitted to the council in a proper manner.

The council may refer a proposed local government residential amendment to one of the council standing committees for review and comment prior to council action in accordance with RCW 19.27.074.

AMENDATORY SECTION (Amending WSR 02-01-113, filed 12/18/01, effective 7/1/02)

WAC 51-04-040 Reconsideration. Any party proposing a statewide or local government amendment to the building code may, upon denial of the amendment by the council, file a petition for reconsideration.

Within ten days of a building code council vote to deny a statewide or local government amendment, any party may file a petition for reconsideration, stating the specific justification for rule adoption or local amendment. The petition shall be filed with the State Building Code Council, P.O. Box ~~((48300))~~ 42525, Olympia, Washington 98504-~~2525~~.

The council is deemed to have denied the petition for reconsideration if, within sixty days from the date the petition is filed, the council does not either:

- (1) Dispose of the petition; or
- (2) Serve the parties with a written notice specifying the date by which it will act on the petition.

Unless the petition is deemed denied, the petition shall be disposed of by the council with recommendations from the same committee or committees that considered the proposed rule or local amendment. The disposition shall be in the form of a written notice denying the petition, granting the petition and refiling the rule-making order or approving the local amendment, or granting the petition and setting the matter for further hearings.

AMENDATORY SECTION (Amending WSR 98-02-048, filed 1/5/98, effective 7/1/98)

WAC 51-04-070 Council mailing address. All requests for information, documentation, etc., should be submitted to:

Washington State Building Code Council
 906 Columbia St SW
 Post Office Box ~~((48300))~~ 42525
 Olympia, Washington 98504-~~((8300))~~ 2525
~~((360) 586-0486))~~ 360-725-2966

WSR 05-23-112
PERMANENT RULES
COLUMBIA BASIN COLLEGE

[Filed November 18, 2005, 10:49 a.m., effective December 19, 2005]

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

Purpose: Purpose of the proposed changes is to bring clarity to existing rules, update titles and clarify definitions, and designate authority to the vice-president for administration.

Citation of Existing Rules Affected by this Order: Amending WAC 132S-50-010 through 132S-50-280, college facilities.

Statutory Authority for Adoption: RCW 28B.50.140(7).

Adopted under notice filed as WSR 05-17-037 on August 8, 2005.

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 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 21, 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: November 14, 2005.

Lee R. Thornton
President

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 05-24 issue of the Register.

WSR 05-23-113
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed November 18, 2005, 1:50 p.m., effective December 23, 2005]

Effective Date of Rule: December 23, 2005.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Extension of the effective date of the rule, as described below, is due to a recent request from the Department of Ecology for time to evaluate potential issues arising from the application, if any, of the Cleanup Priority Act, chapter 70.105E RCW, to the disposal of NARM at the commercial low-level radioactive waste disposal site, before the rule takes effect.

Purpose: The purpose of this order is to amend the rule-making order, WSR 05-21-128, filed on October 19, 2005, adopting amendments to chapter 246-249 WAC, to extend the effective date of the rule. The order of adoption identified the effective date of the rule as thirty-one days after filing, or November 19, 2005. This amended order of adoption extends the effective date of the rule to December 23, 2005.

The purpose of this rule making is to amend chapter 246-249 WAC to allow disposal of up to 100,000 cubic feet per year of diffuse naturally occurring and accelerator produced radioactive material (NARM) disposed at the commercial low-level radioactive waste site in Richland, Washington. The amendment also allows the licensee to seek approval to dispose of diffuse NARM volumes greater than of 100,000 cubic feet if there are unused volumes from previous years.

Citation of Existing Rules Affected by this Order: Amending WAC 246-249-001, 246-249-010, 246-249-080, and 246-249-090.

Statutory Authority for Adoption: RCW 70.98.050.

Adopted under notice filed as WSR 05-17-189 on August 24, 2005.

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 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, 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: October 19, 2005.

Date of Amendment: November 18, 2005.

B. White
for M. C. Selecky
Secretary

WSR 05-23-117
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed November 21, 2005, 9:14 a.m., effective January 1, 2006]

Effective Date of Rule: January 1, 2006.

Purpose: On January 10, 2005, ecology adopted updated provisions of chapter 173-400 WAC (effective February 10, 2005) and our references to these ecology rules (listed in Regulation I, Section 6.01) need to be updated to be consistent with the latest version. New provisions of these ecology regulations are also being included in this proposal to support future Notice of Construction program needs.

Citation of Existing Rules Affected by this Order: Amending Regulation I, Section 6.01.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 05-20-042 on September 29, 2005.

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: November 17, 2005.

Steve M. Van Slyke
Supervisory Engineer

AMENDATORY SECTION
REGULATION I SECTION 6.01 COMPONENTS OF NEW SOURCE REVIEW PROGRAM

(a) In addition to the provisions of this regulation, the Agency adopts by reference and enforces the following provisions of the new source review program established by the Washington State Department of Ecology:

WAC 173-400-030	Definitions. (effective ((9/15/01)) <u>2/10/05</u>)
WAC 173-400-081	Startup and shutdown. (effective 9/20/93)

WAC 173-400-110 New source review (NSR). (effective ((9/15/04)) 2/10/05)
 (3) and (6)-(10)

WAC 173-400-112 Requirements for new sources in nonattainment areas. (effective ((9/15/04)) 2/10/05)

WAC 173-400-113 Requirements for new sources in attainment or unclassifiable areas. (effective ((9/15/04)) 2/10/05)

WAC 173-400-114 Requirements for replacement or substantial alteration of emission control technology at an existing stationary source. (effective 9/15/01)

WAC 173-400-117 Special protection requirements for federal Class I areas. (effective ((9/15/04)) 2/10/05)

WAC 173-400-171 Public involvement. - excluding references to chapter 173-460 WAC (effective ((9/15/04)) 2/10/05)

WAC 173-400-200 Creditable stack height and dispersion techniques. (effective ((3/22/94)) 2/10/05)

WAC 173-400-560 General order of approval. (effective 2/10/05)

WAC 173-400-700 Review of major stationary sources of air pollution. (effective 2/10/05)

WAC 173-400-710 Definitions. (effective 2/10/05)

WAC 173-400-720 Prevention of significant deterioration (PSD). (effective 2/10/05)

WAC 173-400-730 Prevention of significant deterioration application processing procedures. (effective 2/10/05)

WAC 173-400-740 PSD permitting public involvement requirements. (effective 2/10/05)

WAC 173-400-750 Revisions to PSD permits. (effective 2/10/05)

WAC 173-460-020 Definitions. (effective 2/14/94)

WAC 173-460-040 New source review. (effective (3)-(10) 2/14/94)

WAC 173-460-050 Requirement to quantify emissions. (effective 2/14/94)

WAC 173-460-060 Control technology requirements. (effective 8/21/98)

WAC 173-460-070 Ambient impact requirement. (effective 9/18/91)

WAC 173-460-080 Demonstrating ambient impact compliance. (effective 2/14/94)

WAC 173-460-090 Second tier analysis. (effective 2/14/94)

(b) The Washington State Department of Ecology is the permitting agency for the Prevention of Significant Deterio-

ration (PSD) program under ((~~WAC 173-400-141~~)) WAC 173-400-700 through WAC 173-400-750 (as delegated by agreement with the US Environmental Protection Agency, Region 10), and for primary aluminum smelters, kraft pulp mills, and sulfite pulp mills.

(c) The Washington State Department of Health is the permitting agency for radionuclides under chapter 246-247 WAC.

(d) The Energy Facility Site Evaluation Council (EFSEC) is the permitting agency for large natural gas and oil pipelines, electric power plants above 350 megawatts, new oil refineries or large expansions of existing facilities, and underground natural gas storage fields under chapter 463-39 WAC.

WSR 05-23-128
PERMANENT RULES
PARKS AND RECREATION
COMMISSION

[Filed November 21, 2005, 12:47 p.m., effective December 22, 2005]

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

Purpose: Chapter 392, Laws of 2005, requires the state Parks and Recreation Commission to establish and implement by rule a program to provide required boating safety education. Chapter 352-78 WAC, Boating safety education program, establishes the administrative process for the commission to accredit a boating safety education course provider and the standards through which the commission issues boater education cards. This chapter provides for alternative means for obtaining a boating education card, establishes the standards for eligibility for a boating safety education card and specifies the documents which can be used temporarily in lieu of a boater education card. This chapter also species the boating education requirements for rental of motor vessels and the alternatives for a boating education card for operators of rentals, exemptions for vessel operators from carrying the boater education [card], fees for a boater education card, a phase-in schedule for the boater education requirement and penalties for violations of these new rules.

Statutory Authority for Adoption: RCW 79A.05.310, chapter 79A.60 RCW and sections 1 through 5, chapter 392, Laws of 2005 codified in chapter 79A.60 RCW.

Adopted under notice filed as WSR 05-20-073 on October 4, 2005.

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 15, 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 15, Amended 0, Repealed 0.

Date Adopted: November 17, 2005.

Jim French, Administrator
Statewide Recreation Programs

Chapter 352-78 WAC

BOATING SAFETY EDUCATION PROGRAM

NEW SECTION

WAC 352-78-010 What is the purpose of the mandatory boating safety education program? The purpose of this program is to inform boaters of the requirements of sections 1 through 5, chapter 392, Laws of 2005, directing the commission to implement a program of mandatory boat operator education.

NEW SECTION

WAC 352-78-020 What do the words and phrases in this chapter mean? When used in this chapter, the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.

(1) "Accredited boating safety course" means a National Association of State Boating Law Administrators (NASBLA) and commission-approved course of instruction that concludes with an examination containing at least fifty questions plus a minimum of ten questions specific about Washington boating laws.

(2) "Accredited boating safety course provider" is a person or organization that provides a NASBLA-approved boating safety course or equivalency exam and has been accredited by the commission.

(3) "Aquatic invasive species" means a nonnative species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.

(4) "Bill of sale" is a document showing date of vessel purchase.

(5) "Boater" is any person on a vessel on the waters of the state of Washington;

(6) "Boater education card" means a card issued to a person who has successfully completed a boating safety education test and has paid the registration fee for a serial number record to be maintained in the commission's data base.

(7) "Boating educator" means a person providing an accredited course.

(8) "Certificate of accomplishment" means a form provided by the commission and issued by a boating educator to a person who has successfully completed an accredited boating safety course. An official card or certificate issued by the United States Coast Guard Auxiliary or United States Power Squadrons to a person for successful completion of their

boating safety education course is also recognized by the commission as a certificate of accomplishment.

(9) "Correspondence course and self-test" means a boating safety course and examination approved by the commission that allows individuals who are unable to participate in a boating safety class or equivalency exam a means of providing proof of competency.

(10) "Commission" means the Washington state parks and recreation commission.

(11) "Direct supervision" occurs when a person possessing or exempt from having to possess a boater education card maintains close visual and verbal contact with, provides adequate direction to, and can immediately assume control of a motor vessel from an operator of a motor vessel who is allowed to operate a motor vessel without a boater education card.

(12) "Equivalency exam" is an exam created by the commission containing at least fifty questions plus a minimum of ten specific questions that cover laws and other issues pertaining to boating in Washington. The equivalency exam is intended to provide experienced boat operators with the opportunity to meet the minimum standard of boating safety education without having to take a boating safety course.

(13) "Motor vessel" means all boats and vessels which are propelled by machinery.

(14) "Motor vessel safety operating and equipment checklist" means a printed list of the safety requirements for the operator of a vessel with a motor installed or attached to the vessel being rented, chartered, or leased and meeting minimum requirements adopted by the commission.

(15) "Minimum standard of boating safety accomplishment" means a standard of proficiency established by the commission based on the standards set by the NASBLA that determines whether an applicant for a boater education card has met or exceeded the requirements of a boating safety course, equivalency exam or correspondence course and self-test.

(16) "NASBLA" means National Association of State Boating Law Administrators.

(17) "Operator" means an individual who steers, directs, or otherwise has physical control of a vessel that is underway or exercises actual authority to control the person at the helm.

(18) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(19) "Proctor" is a member of the United States Coast Guard Auxiliary, United States Power Squadrons, public official including county sheriff's deputy, city police officer, and/or other individual authorized by the commission to provide an accredited boating safety course or equivalency exam.

(20) "Proof of accomplishment" means evidence of having met the minimum standard for boating safety education accomplishment as determined by the commission.

(21) "Person" means any individual, sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, or other legal entity located within or outside this state.

(22) "Rental agent" means any person who is authorized to act for the owner or employer of a recreational motor vessel rental or leasing agency.

(23) "Rental motor vessel" means a motor vessel that is legally owned by a person that is registered as a rental and leasing agency for recreational motor vessels, and for which there is a written and signed rental, charter, or lease agreement between the owner, or owner's agent, of the vessel and the operator of the vessel.

(24) "Replacement boater education card" means a boater education card provided to a person who has already been issued a boater education card and has applied for a replacement of the card that has been lost, damaged, stolen, or otherwise is in need of replacement.

(25) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

(26) "Vessel registration" means a document issued by the department of licensing showing that all taxes and fees have been paid and acts as a permit for the vessel to be used on the waters of the state.

(27) "Waters of the state" means any waters within the territorial limits of Washington state.

NEW SECTION

WAC 352-78-030 What is the process the commission will use to accredit a course provider? (1) The commission will delegate to the director of the Washington state parks and recreation commission or designee the authority to establish minimum standards for a boating safety education program that are consistent with the education standards set by NASBLA and which shall include training on preventing the spread of aquatic invasive species. The commission shall approve and provide accreditation to boating safety education courses operated by volunteers, or commercial or nonprofit organizations, including, but not limited to, courses given by the United States Coast Guard Auxiliary and the United States Power Squadrons. The commission shall strive to make its boating education course materials and testing opportunities available to culturally and linguistically diverse people who are English learners, and to facilitate making the boating education card available to such persons. The boating safety education program shall provide for the accreditation of a boating safety course or courses by boating educators. The commission shall:

(a) Follow the NASBLA process for course review and approval and shall review any course that is proposed by any private or public entity that desires to teach a course to the public for the purposes of obtaining a boater education card. The commission will make available to any interested prospective accredited boating safety course provider, forms in paper and electronic form, to be used to apply to the commission to become an accredited boating safety course provider. In order to be accredited by the commission, an accredited boating safety course provider that wants to issue a boater education card must issue only the commission's boater education card.

(b) Follow the NASBLA process for courses to be reviewed and reapproved if the provider wishes to continue the use of the course.

(c) Use the NASBLA testing standards for exam questions.

(d) Create a question pool that meets the NASBLA examination question standards to cover Washington state boating laws and regulations and make this part of any course to enable accredited boating safety course providers to meet NASBLA standards.

(e) Consider and evaluate public agency and commercial opportunities to assist in program administration with the intent to keep administrative costs to a minimum.

(2) Any boater twelve years of age or older who completes a boating safety course that has met commission standards will be eligible to receive a boater education card upon application for such card and payment of appropriate fees. The commission will accept as proof of accomplishment or course completion:

(a) A copy of an original certificate from any course taken prior to July 1, 2005, provided that such course meets the NASBLA standards for Washington in effect at the time the course was taken.

(b) A letter from an accredited course provider that certifies that the named individual has taken and passed a boating safety course from this provider that met the acceptable course standards as of the date the course was given.

NEW SECTION

WAC 352-78-040 What are alternative methods of obtaining a boating education card? (1) Provide an opportunity for any person who so wishes, to demonstrate their boating safety knowledge by taking a commission-approved equivalency exam developed from the NASBLA and state question pools.

(2) Provide an opportunity for any person who so wishes, to take a commission-approved correspondence course and self-test.

(3) Provide an opportunity for any person who so wishes, to take a commission-approved internet course.

NEW SECTION

WAC 352-78-050 How do I become eligible to obtain a commission-issued boater education card? (1) A person required to possess a commission-issued boater education card in order to operate a motor vessel in Washington must meet the minimum standard for boating safety education accomplishment as set by the commission. The minimum standards for boating safety education accomplishment required by the commission are:

(a) Successful completion of a course or exam offered by an accredited boating safety course provider or proctor. Such courses or exams may include, but not be limited to, classroom, internet, correspondence, and proctored and unproctored exams.

(b) Possession of a certificate, card, or other official document issued by another state or country that is equivalent to the commission's boating safety course or equivalency exam.

(c) Suitable evidence of achieving the minimum standards for boating safety education accomplishment consists of:

(i) A certificate issued by the United States Power Squadrons, United States Coast Guard Auxiliary, the commission or other accredited boating safety course provider.

(ii) A certificate, card, or other official document issued by another state or country that is equivalent to the rules adopted by the commission.

(iii) Proof of accomplishment documentation must contain the name of the individual applying for the boater education card and be signed or otherwise certified by the issuing organization or agency.

(d) Boater education cards issued by the commission shall contain a unique number that corresponds to the individual named on the card. Commission-issued boater education cards are not transferable from one individual to another.

NEW SECTION

WAC 352-78-060 How can I obtain a boater education card? To obtain a commission-issued boater education card, a person must provide to the commission:

(1) A completed application on a form provided by the commission. The application form will require the name, address, date of birth and other identifying characteristics of the applicant as determined by the commission. Incomplete applications will be returned to the applicant.

(2) Provide proof of accomplishment consisting of a document verifying the applicant has successfully completed a boating safety course or equivalency exam.

(a) A copy of the original certificate issued by the United States Power Squadrons, United States Coast Guard Auxiliary, the commission or other accredited boating safety course provider, or a Canadian Pleasure Craft Operator's Card are acceptable proof of accomplishment; or

(b) A copy of the original certificate, card, or other official documents issued by another state or country whose boating safety course meets NASBLA minimum standards is acceptable proof of accomplishment; or

(c) A copy of the original Coast Guard motorboat operator's license, either valid or expired, is acceptable proof of accomplishment. A valid license to operate a vessel issued for maritime personnel by the United States Coast Guard pursuant to 46 CFR Part 10 or a maritime certificate issued by the Canadian government; or

(d) A copy of the original valid commercial fishing license issued by the department of fish and wildlife.

(3) Proof of accomplishment documents must contain the name of the individual applying for the commission-issued boater education card.

(4) In the event the original document establishing proof of accomplishment is not available, a signed statement from an accredited boating safety course provider of a boating safety course stating that the individual has successfully completed a boating safety course or equivalency exam must be submitted to the commission.

(5) The commission may require the applicant to provide the original document establishing proof of accomplishment

if the copy accompanying the application is illegible or the authenticity of the copy is not certain.

NEW SECTION

WAC 352-78-070 What document can be used temporarily in lieu of a boater education card? (1) The owner of a newly purchased motor vessel who is otherwise required to possess a commission-issued boater education card may use a copy of the bill of sale or vessel registration temporarily in lieu of a boater education card for no more than sixty consecutive days from the vessel date of purchase.

(2) A person, while waiting to obtain a commission-issued boater education card, may use a certificate of accomplishment for up to sixty days from date of issue to operate a motor vessel provided the original certificate of accomplishment is on board the vessel while it is being operated.

(3) A person residing in Washington who is otherwise required to possess a commission-issued boater education card and has received a certificate, card, or other official document issued by another state or country that is equivalent to Washington's boater education card may use the original of that document as a temporary education card and may operate a motor vessel in Washington for no more than sixty days from the date of residency provided the document is on board.

(4) A person who legally rents a motor vessel and is otherwise required to possess a commission-issued boater education card may use the required motor vessel safety operating and equipment checklist as a temporary education card and may operate the rental motor vessel in Washington for the term of the rental agreement but not longer than sixty consecutive days.

NEW SECTION

WAC 352-78-080 How do I get a replacement for my commission-issued boater education card? (1) A person may apply for a replacement boater education card from the commission if:

(a) They legally change their name; or

(b) The card is lost, stolen or destroyed.

(2) To obtain a replacement boater education card, an applicant must provide the commission with:

(a) A completed application on a form provided by the commission; and

(b) An affidavit signed by the applicant stating the circumstances that led to the loss or destruction of the original commission-issued boater education card; and

(c) A five-dollar fee for a replacement card paid in full in a manner determined by the commission and stated on the application form.

NEW SECTION

WAC 352-78-090 How do the boater safety education program requirements affect rental operators and liveries? (1) Beginning January 1, 2008, any person who provides a motor vessel for rent in Washington must require that the person who rents the motor vessel and all operators of the rental motor vessel who are required to have the commission-

issued boater education card as provided by the phase-in schedule in WAC 352-78-100, show proof of possession of a boater education card before renting the person a motor vessel; or

(2) When the person who rents the motor vessel and all operators of the rented motor vessel do not possess a commission-issued boater education card, the rental agent must ensure that the person who rents the motor vessel and all operators of the craft:

(a) Reviews, initials, and signs the motor vessel safety operating and equipment checklist in the presence of the rental agent before they may operate the rental motor vessel; and

(b) Retains the issued copy of the motor vessel safety operating and equipment checklist on board when operating the motor vessel.

NEW SECTION

WAC 352-78-100 What is the phase-in schedule for the mandatory boater safety education program? (1) After January 1, 2006, the commission may issue boater education cards to anyone age twelve and older who submits a completed application, provides proof of accomplishment, and pays the fee required in this chapter. Possession of a commission-issued boater education card is not required until January 1, 2008.

(2) Beginning January 1, 2008, all individuals age twelve through twenty are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(3) By January 1, 2009, all individuals age twelve through twenty-five are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(4) By January 1, 2010, all individuals age twelve through thirty are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(5) By January 1, 2011, all individuals age twelve through thirty-five are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(6) By January 1, 2012, all individuals age twelve through forty are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(7) By January 1, 2013, all individuals age twelve through fifty are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(8) By January 1, 2014, all individuals age twelve through sixty are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(9) By January 1, 2015, all individuals age twelve through seventy are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(10) After January 1, 2016, all individuals age twelve and older must possess a boater education card to operate a vessel of fifteen horsepower or greater.

NEW SECTION

WAC 352-78-110 Who is exempt from having to carry a commission-issued boater education card when operating a motor vessel? A commission-issued boater education card is not required by the following persons:

(1) The operator of a vessel engaged in a lawful commercial fishery operation as licensed by the department of fish and wildlife under Title 77 RCW. However, the person when operating a vessel for recreational purposes must carry either a valid commercial fishing license issued by the department of fish and wildlife or a boater education card;

(2) Any person who possesses a valid marine operator license issued by the United States Coast Guard when operating a vessel authorized by such coast guard license. However, the person when operating a vessel for recreational purposes must carry a valid marine operator license issued by the United States Coast Guard or a boater education card;

(3) Any person who is legally engaged in the operation of a vessel that is exempt from vessel registration requirements under chapter 88.02 RCW and applicable rules and is used for purposes of law enforcement or official government work. However, the person when operating a vessel for recreational purposes must carry a boater education card;

(4) Any person at least twelve years old renting, chartering, or leasing a motor driven boat or vessel with an engine power of fifteen horsepower or greater who completes a commission-approved motor vessel safety operating and equipment checklist each time before operating the motor driven boat or vessel, except that an operator of a personal watercraft shall comply with the age requirements under RCW 79A.60.190;

(5) Any person who is not a resident of Washington state and who does not operate a motor driven boat or vessel with an engine power of fifteen horsepower or greater in waters of the state for more than sixty consecutive days;

(6) Any person who is not a resident of Washington state and who holds a current out-of-state or out-of-country certificate or card that is equivalent to the rules adopted by the commission;

(7) Any person who has purchased the boat or vessel within the last sixty days, and has a bill of sale in his or her possession to document the date of purchase;

(8) Any person, including those less than twelve years of age, who are involved in practicing for, or engaging in, a permitted racing event where a valid document has been issued by the appropriate local, state, or federal government agency for the event, and is available for inspection on-site during the racing event;

(9) Any person who is accompanied by and is under the direct supervision of a person sixteen years of age or older who is in possession of a commission-issued boater education card, or who is not yet required to possess the card.

(10) Any person who is not yet required to have a commission-issued boater education card under the phased schedule in WAC 352-78-090; and

(11) Any person born before January 1, 1955.

NEW SECTION

WAC 352-78-120 What is the fee for a commission-issued boater education card? (1) The commission-issued boater education card fee is ten dollars.

(2) Duplicate fee for replacement cards is five dollars. The fee is waived if replacement is necessary because of an error by the commission. The same number will be assigned on any duplicate card as was assigned on the original.

(3) Fees paid to the commission for a commission-issued boater education card or replacement card are not refundable.

(4) An accredited course provider may charge a reasonable fee to recover costs associated with providing a boating safety course or equivalency exam.

(5) All receipts from fees collected for the issuance of the commission-issued boater education card shall be used solely for the administration of this chapter including the initial costs of developing the program. Any surplus funds resulting from the fees received shall be distributed by the commission as grants to local marine law enforcement programs approved by the commission as provided in RCW 88.02.040.

NEW SECTION

WAC 352-78-130 What constitutes a violation of this chapter? A person is considered in violation of the provisions contained in this chapter and subject to the penalties prescribed by law when they:

(1) Provide a false statement or information or assist another person in giving a false statement or information on any application, affidavit, document or statement used to obtain a commission-issued boater education card or replacement boater education card; or

(2) Exhibit an altered boater education card or any boating education card other than the one issued to them, to a peace officer; or

(3) Alter a commission-issued boater education card or replacement boater education card issued by the commission or its authorized agent; or

(4) Produce or possess an unauthorized replica of a commission-issued boater education card or replacement boater education card.

NEW SECTION

WAC 352-78-140 What is the penalty for violation of this chapter? Any violation of this chapter is an infraction under RCW 79A.60.110 and chapter 7.84 RCW.

NEW SECTION

WAC 352-78-150 Can the penalty for failure to possess a commission-issued boater education card be waived? In any proceeding for failure to possess a commission-issued boater education card, the court shall waive the penalty if the boater provides proof to the court within sixty days that he or she has received a boater education card.

WSR 05-23-129**PERMANENT RULES****GAMBLING COMMISSION**

[Order 452—Filed November 21, 2005, 2:40 p.m., effective January 1, 2006]

Effective Date of Rule: January 1, 2006.

Purpose: Currently, card room operators may take a \$1 rake from each hand of poker and apply it towards a player-supported jackpot (PSJ). In June 2005, we received a petition for a rule change from John Mitchell of the Drift On Inn Casino requesting that the rake be increased from \$1 to \$2. The petition was discussed at three commission meetings and at the third meeting, the commission voted to increase the PSJ rake from \$1 to \$2.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-610.

Statutory Authority for Adoption: RCW 9.46.070 and 9.46.0282.

Adopted under notice filed as WSR 05-19-130 on September 20, 2005, with a published date of October 5, 2005.

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 1, 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 1, Repealed 0.

Date Adopted: November 18, 2005.

Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 439, filed 11/24/04, effective 1/1/05)

WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval. A player-supported jackpot (PSJ) is a separate contest of chance directly related to the play and/or outcome of authorized non-house-banked card games but which is not the card game itself. Card rooms with a Class F or house-banked license may establish a prize fund for the purpose of operating a PSJ for nonhouse-banked card games. Any PSJ must be approved in writing by the director or the director's designee prior to play. A PSJ must meet the following requirements:

Funding a PSJ.

(1) A licensee may provide house funds to establish a PSJ. The licensee shall issue a check from the general business account into the PSJ account to start the prize fund. Recouping of start up funds shall be done by issuing a check from the PSJ account to the business general account. Elec-

tronic bank transfers shall satisfy this requirement. Start up funds shall not exceed five thousand dollars per PSJ.

Using a rake to fund a PSJ.

(2) A licensee may assess a portion of players' wagers for a jackpot prize. Such amount shall not exceed ~~((one))~~ two dollars per hand or game for each PSJ. This assessment shall be separately collected using the rake method.

PSJ funds are player funds - exception from administrative fee.

(3) The licensee acts only as the custodian of the PSJ funds, including any interest earned on this money, and maintains no legal right to the funds. All PSJ funds shall be awarded as prizes, based upon a format approved by commission staff. An administrative fee not to exceed ten percent of the amount collected for a PSJ may be imposed by the licensee. This administrative fee includes all expenses incurred by the licensee, including banking fees. No other expenses beyond the ten percent administrative fee shall be deducted from the PSJ account.

Prize fund custodian.

(4) Each licensee shall designate at least one "prize fund custodian" who shall be responsible for safeguarding and disbursing funds to winners. A prize fund custodian may be an owner, partner, officer, or licensed individual designated by a card room owner, partner, or officer. The custodian shall have signature authority for prize fund bank accounts and ensure accountability of all funds collected for use in a PSJ. The licensee shall meet the deposit requirements of WAC 230-40-608.

Payout of prizes.

(5) Prize amounts paid in cash shall not exceed two thousand five hundred dollars. Prize amounts not awarded in cash shall be paid within twenty-four hours, by check, the type which provides a duplicate copy. A record of all prizes paid shall be maintained in the format prescribed by commission staff and shall include:

(a) For prizes less than one hundred dollars, a system of accounting denoting each individual prize may be utilized.

(b) For prizes one hundred dollars and above, the following information shall be recorded on a prize record:

- (i) Full printed name;
- (ii) Date of birth;
- (iii) Street address;
- (iv) Type of identification reviewed;
- (v) Amount of the prize awarded;
- (vi) Description of the winning hand;
- (vii) Time and date awarded; and
- (viii) The supervisor's and dealer's initials.

(c) When awarding a prize of five hundred dollars or more, the dealer must, in view of the surveillance camera, display the value and suit of each card in the winning hand, and the remaining cards in the deck must be counted and put in numerical order by suit to confirm a complete deck. The hand shall be collected and sealed with the prize record. The winning hand and remaining deck shall be maintained on the

premises as part of daily card room records for a period of seven days, unless released by a commission agent.

Owners and employees competing for a PSJ.

(6) Owners, custodians and on-duty card room employees may participate in card games that offer a PSJ, but may not share in the winnings of any prize awarded. Any prize winnings an owner or on-duty employee may be entitled to under game rules, must be divided equally among the other players at the table: Provided, That off-duty employees may participate in card games that offer a PSJ and share in the prize winnings.

Owners and employees showing cards.

(7) Owners and on-duty card room employees must turn their cards face up at the end of each game so they may be observed by other players at the table and surveillance if:

- (a) Playing in a game with a PSJ;
- (b) The prize is not based upon a predetermined hand; and
- (c) There is a qualifying hand at the end of a game (such as a "bad beat" hand).

House dealer required.

(8) All card games offering a PSJ must utilize a house dealer.

Security requirements.

(9) Each gaming table offering a PSJ shall be required to install a closed circuit television system as outlined in WAC 230-40-625: Provided, That licensees operating any house-banked card games shall follow the security requirements set forth in WAC 230-40-825 for all tables in the card room, including those offering a PSJ.

Removing a PSJ from play.

(10) The following procedures shall be followed for all discontinued player-supported jackpots:

Discontinued.

(a) In the event a licensee elects to discontinue a PSJ, the balance, less any nonrecouped seed money, shall be distributed to players within sixty days of discontinuance by offering an approved promotion or card tournament of the same game under which the PSJ was originally accrued.

Closure of business.

(b) In the event a licensee ceases to operate a card room, or fails to maintain a valid card room license, all funds associated with the PSJ shall be distributed to the Washington state council on problem gambling.

Posting rules.

(c) The licensee shall conspicuously post a sign stating how PSJ money will be distributed in the event the PSJ is discontinued or the business closes. The sign must be posted at the inception of the PSJ.

House rules.

(11) House rules, to include administrative fees shall be posted in a location readily visible by all players and disclose the conditions under which prizes may be won, the prize amount, cost to participate, and any other conditions which may affect the outcome of the game.

Dispute resolution.

(12) If a dispute arises involving the outcome of a PSJ, the licensee shall preserve the video recording, the winning hand and remaining deck, and all records for the game where the dispute occurred and shall notify commission staff within twenty-four hours. The licensee shall document all information pertaining to the dispute including:

- (a) The names, addresses, and phone numbers of all players, card room staff, and any witnesses involved;
- (b) Amount of the advertised PSJ; and
- (c) A full description of the circumstances surrounding the dispute.

(13) All disputes involving a PSJ will be investigated by commission staff, with a report submitted to the director. A written decision will be issued by the director, or the director's designee, and such decision shall be final.

(14) During the course of dispute resolution, the commission may become the temporary custodian of any and all prize funds. The PSJ will be suspended until the dispute is resolved.

WSR 05-23-135**PERMANENT RULES****DEPARTMENT OF LICENSING**

[Filed November 22, 2005, 8:28 a.m., effective January 3, 2006]

Effective Date of Rule: January 3, 2006.

Purpose: EHB 1241 passed by the 59th legislature changed the requirements to obtain a vehicle registration or certificate of ownership. Rule making is required to notify the public of procedures that need to be followed to meet these new requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-030, 308-56A-040, and 308-56A-500.

Statutory Authority for Adoption: RCW 46.16.010.

Adopted under notice filed as WSR 05-18-096 on September 7, 2005.

Changes Other than Editing from Proposed to Adopted Version: An addition to the definition of certificate of ownership in WAC 308-56A-500(6).

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 3, 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 1, 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: November 22, 2005.

Liz Luce
Director

AMENDATORY SECTION (Amending WSR 04-07-168, filed 3/23/04, effective 4/23/04)

WAC 308-56A-030 Owner name and address—Recorded on the vehicle record—Registration—Application for certificate of ownership. (1) **What registered owner and lien holder or secured party information is required on the vehicle record - registration - application for certificate of ownership (title)?**

~~((Effective April 23, 2004,))~~ The vehicle record, registration and application for certificate of ownership (title) must include:

(a) The name of each registered owner (~~((individual(s)))~~ natural person or business) of the vehicle and, if the vehicle is subject to a lien or other security interest, the name of each secured party;

(b) The registered owner's primary residence street address (at the choice of the registered owner, a mailing address if different from the residence address can also be given); and

(c) The primary secured party's mailing address.

(2) **Is there other information I am required to provide before I can obtain a certificate of ownership (title) or registration?**

Yes. Before the department can issue a certificate of ownership (title) or registration, one of the following, in addition to the requirement listed in subsection (1) of this section, must be provided for each registered owner that is a natural person:

(a) Presentation of an unexpired Washington state driver's license; or

(b) Certification that he or she is:

(i) A Washington resident who is a natural person and does not operate a motor vehicle on public roads; or

(ii) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(3) **What does primary residence mean for (~~(an individual owner and))~~ a registered owner (~~((that is))~~ who is a natural person or a business?**

(a) ~~((("Primary residence" means the domicile of the registered owner.~~

~~(b)))~~ In the case of ((an individual, the term "domicile")) a natural person, it means the person's true, fixed and permanent home ((and place of habitation)) in Washington. This does not include secondary or vacation homes where a vehicle is garaged or used. The department will presume that a registered owner's primary residence is the same as the address used in driver's license records (~~(and))~~ or voter registration records.

~~((e))~~ (b) In the case of a business, ~~((the term "domicile"))~~ it means the principal place in Washington from which the licensed trade or business of the registered owner is directed, managed, or conducted. Businesses with multiple Washington licensed business locations should use the licensed business location where the service vehicles owned and operated by the business are directed, managed, garaged, stored or maintained.

~~((3))~~ (4) **Do the addresses for the application for certificate of ownership, vehicle record and registration need to conform to United States Postal Service (USPS) standards?**

Yes. USPS address standards must be used on all vehicle records, registrations, and certificates of ownership.

~~((4))~~ (5) **Are there exceptions to the requirement to provide a primary residence street address?**

Yes. Exceptions will be made for:

(a) ~~((Overseas mailing addresses for military personnel, e.g., Army or Air Force Personnel Post Office (APO) or Fleet Post Office (FPO) will be accepted;~~

~~(b) Members of the address confidentiality program administered through the secretary of state's office; or~~

~~(c) Those who do not have USPS mail delivery available at their primary residence street address.~~

~~((5))~~ Persons who are exempt by law from paying motor vehicle excise tax or fees.

~~(b) Vehicles that are exempt by law from motor vehicle excise tax or fees.~~

~~(c) Natural persons who are homeless; defined as someone with no housing.~~

~~(d) Other exceptions may apply as determined appropriate by the director or his or her designee.~~

~~(6) Will the department renew a vehicle registration if the registered owner does not provide a primary residence street address?~~

~~No. ((For purposes of determining if local taxes are due,)) The registered owner's primary residence street address is required for vehicle registration renewals unless ((one of the)) an exception(s) specified in ((subsection (4) of) this section is met ((and the completed and signed Certificate of Fact for Address Verification, in the form of a declaration under penalty of perjury, is filed with the department)).~~

~~((6))~~ (7) **What will the department do if ~~((it becomes aware that there is))~~ presented with documentation or other information to indicate there may be an error in the primary residence street address provided?**

The department will flag the vehicle record and the registered owner will be required, prior to the time of next renewal, to ~~((provide information to reconcile any discrepancy))~~:

~~(a) Show a residential utility bill, driver license or other documentation that verifies the primary residence street address; and~~

~~(b) Complete and sign a declaration under penalty of perjury on a form developed by the department.~~

~~((7))~~ (8) **Can more than one address be shown on the vehicle record or application if there are multiple registered owners with different addresses?**

No. ~~((Only one address for the registered owner will be shown on the vehicle record.))~~ The department can store the

primary residence address and separate mailing address (if applicable) for only one of the registered owner(s).

~~((8))~~ (9) **Can more than one address be shown on the vehicle record ~~((of) or) application if there is more than one secured party?~~**

No. Only one address for the primary secured party will be shown on the vehicle record.

~~((9))~~ (10) **Is the applicant or registered owner required to certify the truth of the address information contained in the application for certificate of ownership or vehicle renewal?**

~~((Yes,))~~ No. The applicant or registered owner ((must)) will only be required to complete and sign a ((Certificate of Fact for Address Verification, in the form of a)) declaration under penalty of perjury on a form developed by the department when the department has been presented with documentation or other information to indicate there may be an error in the address information provided and the vehicle record has been flagged.

~~((11))~~ (11) **What is the penalty if the applicant or registered owner provides false address information?**

A person providing false residency information is guilty of a gross misdemeanor punishable by a fine of five hundred twenty-nine dollars.

~~((12))~~ (12) **Is my residence address subject to public disclosure?**

Where both a mailing address and a residence address are recorded on the vehicle record and are different, only a mailing address will be disclosed. Both addresses will be disclosed in response to requests from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

AMENDATORY SECTION (Amending WSR 04-07-168, filed 3/23/04, effective 4/23/04)

WAC 308-56A-040 Name and address—Change of address. (1) If the registered owner's address changes, does the owner need to notify the department?

Yes.

(2) What information does the registered owner need to provide to the department if their address changes?

The owner must provide the department with ~~((the following information))~~:

(a) The registered owner's name ~~((individual(s)))~~ natural person or business) as it appears on the vehicle record(s);

(b) The license plate number or vehicle identification number (VIN) of each vehicle; and

(c) The new street address for the primary residence and at the choice of the registered owner, a separate mailing address if different from the primary residence address as defined in WAC 308-56A-030(2) with at least a five digit zip code and preferably a nine digit zip code~~((; and~~

~~(d) The county of the new address)).~~

(3) Are there exceptions to the requirement to provide a primary residence street address on the department's change of address form?

Yes. To be exempt from the requirement to provide the primary resident street address, the registered owner must

~~meet one of the exceptions in WAC 308-56A-030(4) and complete and sign a ((Certificate of Fact for Address Verification, in the form of a declaration under penalty of perjury, that at least one of the exceptions in WAC 308-56A-030(4) is met. The department shall provide the required form of address verification)) form developed by the department indicating which exception they meet.~~

(4) Does the address need to conform to United States Postal Service (USPS) standards?

Yes. USPS address standards must be used on all vehicle records, registrations, and certificates of ownership.

(5) Is the registered owner required to certify the truth of the information provided when using the department's change of address form?

~~((Yes, the owner must sign the department's change of address form, which includes certification under penalty of perjury that the information provided is true and correct.))~~
No. The registered owner will only be required to complete and sign a declaration under penalty of perjury on a form developed by the department if the department has been presented with documentation or other information to indicate that there may be an error in the address information provided and the vehicle record has been flagged.

(6) What is the penalty if the applicant or registered owner provides false address information when changing an address?

A person providing false residency information is guilty of a gross misdemeanor punishable by a fine of five hundred twenty-nine dollars.

(7) Is my residence address subject to public disclosure?

Where both a mailing address and a residence address are recorded on the vehicle record and are different, only a mailing address will be disclosed. Both addresses will be disclosed in response to requests from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

AMENDATORY SECTION (Amending WSR 05-07-152, filed 3/23/05, effective 5/15/05)

WAC 308-56A-500 Definitions. The following definitions apply to terms used in chapters 46.12 and 46.16 RCW and chapter 308-56A WAC:

(1) "Affidavit in lieu of title" is a written declaration confirming the certificate of ownership, registration certificate, validation tab are unavailable, lost, stolen, destroyed or mutilated. The affidavit in lieu of title may be used to release interest in the vehicle. The signature of the owner completing the affidavit in lieu of title must be notarized or certified as described in WAC 308-56A-270.

(2) "Affidavit of loss" is a written statement confirming the certificate of ownership, registration certificate, validation tab or decal has been lost, stolen, destroyed or mutilated. The affidavit of loss release of interest form may be used to release interest in the vehicle and transfer gross weight license for that vehicle to a new owner. The signature of the owner completing the affidavit of loss release of interest must be notarized or certified as described in WAC 308-56A-270.

(3) "Affixed" means attached.

(4) "Brands" means a permanent notation on the certificate of ownership and vehicle registration certificate that records a circumstance or condition involving a vehicle.

(5) "Brands incident date" is the date that a brand was first applied to a vehicle. For states/jurisdictions participating in the National Motor Vehicle Title Information System (NMVTIS), it's the date the brand was first reported. For all other states/jurisdictions, it is established by using the date the current title was issued. Brands on Washington records prior to the effective date of this rule will reflect a brand incident date equal to the date the last Washington certificate of ownership was issued.

(6) "Certificate of ownership" (also referred to as "certificate of title" or "title") is a legal document indicating proof of ownership and will establish a fact or sustain a judgment unless contradictory evidence is produced. A certificate of ownership may be a document other than a title when a title document is not issued by a jurisdiction. For example, for Canadian vehicles, the certificate of ownership is the registration.

(7) "Comment" means an indication on the certificate of ownership, vehicle title/registration application or vehicle registration certificate that relates to tax liability, type of ownership, title transaction type or a previous condition of the vehicle.

(8) "Commercial parking company" means any business directly engaged in providing vehicle parking upon property owned or controlled by the business and approved for public parking of vehicles.

(9) "Current license plate registration" means the current registration or one that has been expired less than one year.

(10) "Declaration in lieu of title" is a written statement confirming the certificate of ownership, registration certificate, validation tab is unavailable, lost, stolen, destroyed, or mutilated. The declaration in lieu of title may be used to release interest in the vehicle. The signature of the owner completing the declaration in lieu of title must be signed under penalty of perjury, as described in WAC 308-56A-270.

(11) "Declaration of loss" is a written statement confirming the certificate of ownership, registration certificate, validation tab or decal has been lost, stolen, destroyed, or mutilated. The declaration of loss release of interest form may be used to release interest in the vehicle and transfer gross weight license for that vehicle to a new owner. The signature of the owner completing the declaration of loss release of interest must be signed under penalty of perjury, as described in WAC 308-56A-270.

(12) "Department" means the same as described in RCW 46.04.162.

(13) "Department temporary permit" is a permit issued temporarily in lieu of permanent registration and license plates when required documentation is unavailable.

(14) "Electronic filing" is the use of an electronic method to transmit information to the department that may include, but is not limited to, the use of the internet and facsimile.

(15) "Involuntary divestiture" means a change in vehicle ownership without the registered owner's involvement.

(16) "Joint tenancy with rights of survivorship" (JTWROS) means two or more people who own a vehicle in

joint tenancy with the right to own individually if one of them dies.

(17) "Jurisdiction code" means an abbreviation assigned by the department generally based on the U.S. Postal Service designation that indicates state, province, district, or country.

(18) "Legal owner" means the same as described in RCW 46.04.270.

(19) "Lien holder" means a person or entity that has a legal right or interest in another's property until a debt or duty that it secures is satisfied.

(20) "Natural person" means a human being.

(21) "Not eligible for road use" (NEFRU) means a vehicle that does not meet Federal Motor Vehicle Safety standards, other federal and/or state standards for public road use as adopted, applied, and enforced by the Washington state patrol described in RCW 46.37.005.

~~((21))~~ (22) "A declaration under penalty of perjury" means a statement signed by the applicant to the effect - "I declare under penalty of perjury under the laws of the state of Washington that the information I have provided on this form is true and correct. Anyone who knowingly makes a false statement may be guilty of a ~~(felony)~~ crime under state law ~~((and upon conviction shall be punished by a fine))~~.

~~((22))~~ (23) "Person" means the same as described in RCW 46.04.405.

~~((23))~~ (24) "Personal representative" means:

(a) An individual appointed by the court; or

(b) An individual named in the last will and testament and confirmed by the court to manage the estate of a deceased person.

Personal representative may also include executor, administrator, special administrator, and guardian or limited guardian and special representative as defined in RCW 11.02.005(1).

~~((24))~~ (25) "Registered owner" means the same as described in RCW 46.04.460.

~~((25))~~ (26) "Security interest" means a property interest created by agreement or by operation of law to secure performance of an obligation (repayment of a debt).

~~((26))~~ (27) "Security interest holders" means in this instance, the same as "lien holder" as defined in subsection (16) of this section.

~~((27))~~ (28) "Secured party" means in this instance the same as "lien holder" as defined in subsection (16) of this section.

~~((28))~~ (29) "Standard brand" is a brand found on the brands list maintained by the National Motor Vehicle Title Information System (NMVTIS) program.

~~((29))~~ (30) "Transferee" means a person to whom a vehicle is transferred, by purchase, gift, or any means other than by creation of a security interest, and any person who, as agent, signs an odometer disclosure statement for the transferee, when applicable.

~~((30))~~ (31) "Transferor" means a person who transfers ownership in a vehicle by sale, gift, or any means other than by creation of a security interest and any person who, as agent, signs an odometer disclosure statement for the transferor, when applicable.

~~((31))~~ (32) "Unique brand" means a brand issued by a state that is not participating in the National Motor Vehicle

Title Information System (NMVTIS) program and does not appear on the brands list maintained by NMVTIS.

~~((32))~~ (33) "Washington vehicle licensing office" means an office that is operated by the department or an agent or subagent appointed under RCW 46.01.140 for the purpose of carrying out the vehicle titling and registration provisions in Title 46 RCW.

NEW SECTION

WAC 308-96A-096 Registration requirements. (1) What is required when registering a vehicle in Washington?

(a) The name of each registered owner, (natural person or business) of the vehicle and, if the vehicle is subject to a lien or other security interest, the name of each secured party;

(b) The registered owner's primary residence street address (at the choice of the registered owner, a mailing address if different from the residence address can also be given); and

(c) The primary secured party's mailing address; and

(d) For natural persons one of the following:

(i) Presentation of an unexpired Washington state driver's license; or

(ii) Certification that he or she is:

• A Washington resident who does not operate a motor vehicle on public roads; or

• Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

For purposes of this section, shared or joint ownership includes all registered owners shown on the active vehicle record.

(2) For the purposes of this section, "presents" means:

(a) In person, to bring and display the unexpired Washington state driver's license to the department or its agents and subagents and for each additional registered owner shown on the vehicle record, a photocopy of, or to provide in writing, the license number and expiration date from an unexpired Washington state driver's license.

(b) For internet transactions, to enter the license number and expiration date from an unexpired Washington state driver's license.

(c) By mail, to provide in writing the license number and expiration date from an unexpired Washington state driver's license.

(3) For the purposes of this section, "valid and compelling" reasons include:

(a) Driving privilege has been withdrawn by the department or a court.

(b) A co-owner is not available. Circumstances to include, but not be limited to, being incarcerated or out-of-state due to work assignment or personal need.

(c) A co-owner is deceased.

(d) Persons who are divorced and the registered owner awarded the vehicle presents a divorce decree showing the vehicle was awarded to them.

(e) Active military stationed in a foreign country or otherwise not available to provide the information.

(f) Other reasons determined by the director or his or her designee to be valid and compelling.

(4) For the purposes of this section, a "natural person" may be a resident of this state even though that person has or claims residency in another state or intends to leave this state at some future time. A natural person will be presumed a resident if at least two of the following conditions are met:

(a) You maintain a residence in this state for personal use;

(b) You have a Washington state driver's license or a Washington state resident hunting or fishing license;

(c) You use a Washington state address for federal income tax or state tax purposes;

(d) You have previously maintained a residence in this state for personal use and have not established a permanent residence outside the state of Washington (for example, a person who retires and lives in a motor home or vessel which is not permanently attached to any property);

(e) You claim this state as residence for obtaining eligibility to hold a public office or for judicial actions;

(f) You are a custodial parent with a child attending public school in this state;

(g) The department may consider factors other than those listed in this subsection to determine that a person intends to be located in or be a resident of this state. However, the department may not consider those factors alone to presume residency;

(h) A natural person who is a resident of Washington may not form a corporation, trust or other entity in another jurisdiction for the purpose of evading Washington vehicle registration.

(5) When registering a vehicle with joint or shared ownership, you must present the following for each registered owner shown on the active vehicle record:

(a) The license number from an unexpired Washington state driver's license; or

(b) Certification that you or the co-owner is a Washington resident who does not operate a motor vehicle on public roads; or

(c) Certificate that you or the co-owner is exempt from the requirement to obtain a Washington driver's license under RCW 46.20.025.

WSR 05-23-143
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 22, 2005, 9:25 a.m., effective January 3, 2006]

Effective Date of Rule: January 3, 2006.

Purpose: Special equipment rental and purchase prosthetic and orthotics equipment, WAC 296-20-1102. This change is being proposed as to not violate WAC 296-20-1102 when oxygen equipment is rented for an extended period of time and the total rental fees would exceed the purchase price of the equipment. Also, the change will bring the Department of Labor and Industries in line with normal industry and CMS standards, specifically, providing oxygen equipment primarily on a rental basis.

Citation of Existing Rules Affected by this Order:
Amending WAC 296-20-1102.

Statutory Authority for Adoption: RCW 51.04.020 and 51.04.030.

Adopted under notice filed as WSR 05-18-058 on September 6, 2005.

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 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: November 22, 2005.

Gary Weeks
Director

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-20-1102 Special equipment rental and purchase prosthetic and orthotics equipment. The department or self-insurer will authorize and pay rental fee for equipment or devices if the need for the equipment will be for a short period of treatment during the acute phase of condition. Rental extending beyond sixty days requires prior authorization. If the equipment will be needed on long term basis, the department or self-insurer will consider purchase of the equipment or device. The department's or self-insurer's decision to rent or purchase an item of medical equipment will be based on a comparison of the projected rental costs of the item with its purchase price. An authorized representative of the department or self-insurer will decide whether to rent or purchase certain items, provided they are appropriate and medically necessary for treatment of the worker's accepted industrial condition. Decisions to rent or purchase items will be based on the following information:

(1) Purchase price of the item.

(2) Monthly rental fee.

(3) The prescribing doctor's estimate of how long the item will be needed.

The prescribing doctor must obtain prior authorization from the department or self-insurer, for rental or purchase of special equipment or devices. Also, all equipment (rentals and purchases), prosthetics, and orthotics must be billed using the appropriate codes, and billing forms, as determined by the medical aid rules and fee schedules.

The department or self-insurer will authorize and pay for prosthetics and orthotics as needed by the worker and substantiated by attending doctor. If such items are furnished by the attending doctor, the department or self-insurer will reim-

burse the doctor his cost for the item. See chapter 296-20 WAC (including WAC 296-20-124) and the fee schedules for information regarding replacement of such items on closed claims.

The department or self-insurer will repair or replace originally provided damaged, broken, or worn-out prosthetics, orthotics, or special equipment devices upon documentation and substantiation from the attending doctor.

Provision of such equipment requires prior authorization.

THE GRAVITY GUIDING SYSTEM, GRAVITY LUMBAR REDUCTION DEVICE, BACKSWING AND OTHER INVERSION TRACTION EQUIPMENT MAY ONLY BE USED IN A SUPERVISED SETTING. RENTAL OR PURCHASE FOR HOME USE WILL NOT BE ALLOWED NOR PAID BY THE DEPARTMENT OR SELF-INSURER.

EQUIPMENT NOT REQUIRING PRIOR AUTHORIZATION INCLUDES CRUTCHES, CERVICAL COLLARS, LUMBAR AND RIB BELTS, AND OTHER COMMONLY USED ORTHOTICS OF MINIMAL COST.

PERSONAL APPLIANCES SUCH AS VIBRATORS, HEATING PADS, HOME FURNISHINGS, HOT TUBS, WATERBEDS, EXERCISE BIKES, EXERCISE EQUIPMENT, JACUZZIES, PILLOWS, CASSETTE TAPES, EDUCATIONAL MATERIALS OR BOOKS, AND OTHER SIMILAR ITEMS WILL NOT BE AUTHORIZED OR PAID.

In no case will the department or self-insurer pay for rental fees once the purchase price of the rented item has been reached with the exception of oxygen equipment. The department or self-insurer may pay for rental fees of oxygen equipment beyond its purchase price.

WSR 05-23-149

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed November 22, 2005, 11:57 a.m., effective December 23, 2005]

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

Purpose: To add new sections to Title 98 WAC adding brief adjudicative proceedings and when they can be used, objections to brief adjudicative proceedings and conversion to formal adjudicative hearings.

Statutory Authority for Adoption: RCW 68.05.105 and chapter 34.05 RCW.

Adopted under notice filed as WSR 05-16-002 on July 21, 2005.

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 2, 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 2, Amended 0, Repealed 0.

Date Adopted: November 22, 2005.

Joe Vincent Jr.
Administrator

NEW SECTION

WAC 98-08-005 Brief adjudicative proceedings—
When they can be used. (1) The board adopts RCW 34.05.-482 through 34.05.494 for the administration of brief adjudicative proceedings conducted at the discretion of the board. Brief adjudicative proceedings can be used in place of formal adjudicative hearings whenever the board issues a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleging that an applicant or licensee's conduct, act(s), or condition(s) constitute unlicensed practice or unprofessional conduct as that term is defined under chapter 18.235 RCW, the Uniform Regulation of Business and Professions Act. Brief adjudicative proceedings can also be used whenever the statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleges violations of any statute or rule that specifically governs disciplinary actions within a profession for which the applicant seeks a license or from which the licensee holds a license.

(2) Brief adjudicative proceedings may be used to determine the following issues, including, but not limited to:

(a) Whether an applicant has satisfied terms for reinstatement of a license after a period of license restriction, suspension, or revocation;

(b) Whether an applicant or licensee has satisfied financial security requirements by providing adequate proof of surety bonds or other proof of financial security, as required by law;

(c) Whether a sanction proposed by the department is appropriate based on the stipulated facts;

(d) Whether an applicant meets minimum requirements for an initial or renewal application;

(e) Whether an applicant or licensee failed to cooperate in an investigation by the department;

(f) Whether an applicant or licensee was convicted of a crime that should disqualify the applicant or licensee from holding the specific license sought or held;

(g) Whether an applicant or licensee has defaulted on educational loans;

(h) Whether an applicant or licensee has violated the terms of a final order issued by the director or director's designee;

(i) Whether a licensee has committed recordkeeping violations;

(j) Whether a licensee has committed trust account violations;

(k) Whether an applicant or licensee has engaged in false, deceptive, or misleading advertising; or

(l) Whether a person has engaged in unlicensed practice.

(3) In addition to the situations enumerated in subsection (2) of this section, the board may conduct brief adjudicative proceedings instead of formal adjudicative hearings whenever the parties have stipulated to the facts and the only issues

presented are issues of law, or whenever issues of fact exist but witness testimony is unnecessary to prove or disprove the relevant facts.

NEW SECTION

WAC 98-08-015 Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings. (1) At least five days before the scheduled brief adjudicative proceeding, any party, including the board, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that a matter be converted to a formal adjudicative hearing. Upon receiving a timely written objection, the presiding officer shall determine whether the matter should be converted. Regardless of whether any party files a timely objection, the presiding officer may convert any brief adjudicative proceeding to a formal adjudicative hearing whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the board.

(2) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(a) Whether witness testimony will aid the presiding officer in resolving contested issues of fact;

(b) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(c) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;

(d) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the agency;

(e) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(f) Any other factors that the presiding officer deems relevant in reaching a determination.

WSR 05-23-150

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed November 22, 2005, 11:59 a.m., effective December 23, 2005]

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

Purpose: To amend WAC 308-48-810 as to when brief adjudicative proceedings can be used, to add a new section, WAC 308-48-815, clarifying objections to brief adjudicative proceedings and conversion to formal adjudicative hearings, and to repeal WAC 308-48-820 and 308-48-830.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-48-820 and 308-48-830; and amending WAC 308-48-810.

Statutory Authority for Adoption: RCW 18.39.175 and chapter 34.05 RCW.

Adopted under notice filed as WSR 05-16-003 on July 21, 2005.

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 1, Amended 1, Repealed 2.

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 1, Amended 1, Repealed 2.

Date Adopted: November 22, 2005.

Joe Vincent Jr.

Administrator

AMENDATORY SECTION (Amending WSR 97-21-063, filed 10/14/97, effective 11/14/97)

WAC 308-48-810 ~~((Application of))~~ Brief adjudicative proceedings—When they can be used. (1) The board adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted ~~((by request, and/or))~~ at the discretion of the board ~~((chair pursuant to RCW 34.05.482, for the categories of matters set forth below))~~. Brief adjudicative proceedings ~~((will be limited to a determination of one or more of the following issues:~~

~~(1) Whether an applicant for a license meets the minimum criteria for a license to operate a funeral establishment, branch funeral establishment, or a crematory; or to receive a prearrangement funeral service contract license; or for a license to practice as a funeral director, embalmer, apprentice funeral director, or apprentice embalmer; and the board proposes to deny the application;~~

~~(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the board;~~

~~(3) Whether an education course or curriculum meets the criteria for approval when approval by the board is required or authorized by statute or rule;~~

~~(4) Whether a license holder requesting renewal has submitted all required information and whether a license holder meets minimum criteria for renewal; and~~

~~(5) Whether a license holder has been certified by a lending agency and reported to the board for nonpayment or default on a federally or state guaranteed educational loan or service conditional scholarship)) can be used in place of formal adjudicative hearings whenever the board issues a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleging that an applicant or licensee's conduct, act(s), or condition(s) constitute unlicensed practice or unprofessional conduct as that term is defined under chapter 18.235 RCW, the Uniform Regulation of Business and Professions Act. Brief adjudicative proceedings can also be used whenever the statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleges violations of any statute or rule that specifically governs disciplinary actions~~

within a profession for which the applicant seeks a license or from which the licensee holds a license.

(2) Brief adjudicative proceedings may be used to determine the following issues, including, but not limited to:

(a) Whether an applicant has satisfied terms for reinstatement of a license after a period of license restriction, suspension, or revocation;

(b) Whether an applicant is eligible to sit for a professional licensing examination;

(c) Whether an applicant or licensee has satisfied financial security requirements by providing adequate proof of surety bonds or other proof of financial security, as required by law;

(d) Whether a sanction proposed by the board is appropriate based on the stipulated facts;

(e) Whether an applicant meets minimum requirements for an initial or renewal application;

(f) Whether an applicant has failed the professional licensing examination;

(g) Whether a licensee has sufficient continuing education credits when the licensee submits a renewal application;

(h) Whether an applicant or licensee failed to cooperate in an investigation by the department;

(i) Whether an applicant or licensee was convicted of a crime that should disqualify the applicant or licensee from holding the specific license sought or held;

(j) Whether an applicant or licensee has defaulted on educational loans;

(k) Whether an applicant or licensee has violated the terms of a final order issued by the director or director's designee;

(l) Whether a licensee has committed recordkeeping violations;

(m) Whether a licensee has committed trust account violations;

(n) Whether an applicant or licensee has engaged in false, deceptive, or misleading advertising;

(o) Whether a person has engaged in unlicensed practice;

or
(p) Whether an education course or curriculum meets the criteria for approval when approval by the board is required or authorized by statute or rule.

(3) In addition to the situations enumerated in subsection (2) of this section, the board may conduct brief adjudicative proceedings instead of formal adjudicative hearings whenever the parties have stipulated to the facts and the only issues presented are issues of law, or whenever issues of fact exist but witness testimony is unnecessary to prove or disprove the relevant facts.

NEW SECTION

WAC 308-48-815 Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings. (1) At least five days before the scheduled brief adjudicative proceeding, any party, including the board, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that a matter be converted to a formal adjudicative hearing. Upon receiving a timely written objection, the presiding officer shall determine whether

the matter should be converted. Regardless of whether any party files a timely objection, the presiding officer may convert any brief adjudicative proceeding to a formal adjudicative hearing whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the board.

(2) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(a) Whether witness testimony will aid the presiding officer in resolving contested issues of fact;

(b) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(c) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;

(d) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the agency;

(e) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(f) Any other factors that the presiding officer deems relevant in reaching a determination.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-48-820	Preliminary record in brief adjudicative proceedings.
WAC 308-48-830	Conduct of brief adjudicative proceedings.

WSR 05-23-152

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed November 22, 2005, 12:40 p.m., effective December 23, 2005]

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

Purpose: The purpose of this rule is to revise the fee schedule for the Office of Drinking Water to raise waterworks operator certification fees by 28.6% as allowed by an Initiative 601 exemption received during the 2006 [2005] legislative session.

Citation of Existing Rules Affected by this Order: Amending WAC 246-292-160.

Statutory Authority for Adoption: RCW 43.70.250 and 70.119.160.

Adopted under notice filed as WSR 05-19-051 on September 15, 2005.

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 1, Repealed 0.

Date Adopted: November 22, 2005.

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 04-12-123, filed 6/2/04, effective 7/3/04)

WAC 246-292-160 Water works certification fees. (1)

Operator fees:

(a) Applicable fees are listed in Table 2 of this section;

Table 2
WATER WORKS OPERATOR FEES

OPERATOR CLASSIFICATION	APPLICATION FEE	REAPPLICATION FEE	ANNUAL RENEWAL FEE	LATE FEE
WTPO	\$(68.00) <u>87.00</u>	\$(33.00) <u>42.00</u>	\$(33.00*) <u>42.00*</u>	\$(27.00**) <u>35.00**</u>
WDM	\$(68.00) <u>87.00</u>	\$(33.00) <u>42.00</u>	\$(33.00*) <u>42.00*</u>	\$(27.00**) <u>35.00**</u>
WDS	\$(68.00) <u>87.00</u>	\$(33.00) <u>42.00</u>	\$(33.00*) <u>42.00*</u>	\$(27.00**) <u>35.00**</u>
CCS	\$(40.00) <u>51.00</u>	\$(33.00) <u>42.00</u>	\$(33.00*) <u>42.00*</u>	\$(27.00**) <u>35.00**</u>
BAT	\$(40.00) <u>51.00</u>	\$(33.00) <u>42.00</u>	\$(33.00) <u>42.00*</u>	\$(27.00) <u>35.00</u>
BTO	\$(40.00) <u>51.00</u>	\$(33.00) <u>42.00</u>	\$(33.00) <u>42.00*</u>	\$(27.00) <u>35.00</u>

* The annual renewal fee for a WTPO, WDM, WDS and CCS certification is ~~((thirty-three))~~ thirty-five dollars regardless of the number of classifications held.

** The annual late fee for a WTPO, WDM, WDS, and CCS certification is ~~((twenty-seven))~~ thirty-five dollars regardless of the number of classifications held.

(b) ~~The department will assess a late fee ((shall be assessed)) to operators ((failing)) who fail to submit the required fee within the time period specified on the renewal form; and~~

(c) The fee for application for reciprocity is one hundred ~~((thirty-eight))~~ seventy-seven dollars per classification.

(2) Group A system fees:

(a) Applicable fees are listed as indicated in Table 3 of this section.

(d) The system fee for issuance of a temporary certification shall be ~~((sixty-eight))~~ eighty-seven dollars for each temporary position.

(3) Fees are nonrefundable and transfers of fees are not allowable.

(4) ~~((Payment of))~~ Fees required under this chapter ~~((shall be in the form of a))~~ must be paid by check or money order made payable to the department of health and ~~((shall be))~~ mailed to the department ~~((of Health))~~ at P.O. Box 1099, Olympia, Washington 98507-1099.

Table 3

ANNUAL SYSTEM CERTIFICATION FEES

SYSTEM SIZE* (Number of Equivalent Services)	SYSTEM FEE
Less than 601 Services	\$(103.00) <u>132.00</u>
601 through 6,000 Services	\$(313.00) <u>403.00</u>
6,001 through 20,000 Services	\$(417.00) <u>536.00</u>
More than 20,000 Services	\$(629.00) <u>809.00</u>

* Systems designated by the department as approved satellite management agencies (SMAS) shall pay a fee based on total services in all systems owned by the SMA.

(b) A Group A system must pay the fee ~~((s shall be paid))~~ in Table 3 in conjunction with the system's annual operating permit fee required in chapter 246-294 WAC.

(c) The department will assess a late fee ~~((shall be assessed))~~ against any system ~~((for failing))~~ that fails to submit ~~((the applicable))~~ its fees to the department within the designated time period. The late fee ~~((shall be))~~ is based on the water system's classification and ~~((shall be an additional))~~ is equal to ten percent of the ~~((applicable))~~ system fee in Table 3 or ~~((twenty-seven))~~ thirty-five dollars, whichever is greater.

**WSR 05-23-161
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed November 22, 2005, 4:31 p.m., effective January 1, 2006]

Effective Date of Rule: January 1, 2006.

Purpose: This rule-making order will adopt changes to chapter 296-17 WAC, General reporting rules, classifications, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance.

The changes clarify rules for units of exposure, reforestation subcontractor reporting, mechanical logging accounts, and revise the evaluation of actual losses in WAC 296-17-870 to accommodate the new classification 7205 for emergency workers. Changes in classifications remove references to one deleted classification, add the installation of artificial turf, correct a reference to metal, permits 1007 as a classification for a logging business and removes the special note to 1007, clarifies the definition of a retail bakery, expands the list of school employees, revises the list of strenuous exercise

activities, revises the definition of social workers, clarifies the term logging crew and adds shake and shingle mills to a temporary help classification. A new classification is created for emergency workers.

Citation of Existing Rules Affected by this Order: Amending WAC 296-17-31021, 296-17-35203, 296-17-870, 296-17-503, 296-17-517, 296-17-52106, 296-17-53504, 296-17-614, 296-17-646, 296-17-650, 296-17-680, 296-17-681, 296-17-73111, 296-17-698, 296-17-743, and 296-17-76212.

Statutory Authority for Adoption: RCW 51.16.035, 51.16.100.

Adopted under notice filed as WSR 05-20-069 on October 4, 2005.

Changes Other than Editing from Proposed to Adopted Version: The department is removing from this rule adoption the following WAC sections related to agriculture, brush pickers and farm labor contracting. Definition of farm labor contractor, WAC 296-17-31014, 296-17-643, 296-17-644, 296-17-645, 296-17-646, 296-17-649, 296-17-64901, 296-17-64902, 296-17-64903, 296-17-64905, 296-17-772, 296-17-773, 296-17-777, and 296-17-778. These WAC sections will be reintroduced in a new rule making beginning with a CR-101 filing which will allow interested parties additional opportunities to enter into discussions and provide comments on this subject area.

WAC 296-17-646 is being amended to reword classification 4805-08, however, no changes will be made to the special note regarding farm labor contractors.

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 1, Amended 15, 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 0, Amended 0, Repealed 0.

Date Adopted: November 22, 2005.

Gary Weeks
Director

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-31021 Units of exposure. (1) What is a "unit of exposure?"

A unit of exposure is the measure which is used to help determine the premium you will pay. For most businesses the unit of exposure is the *hours* worked by their employees. Because not all employees are compensated based on the hours they work, we have developed reporting alternatives to make reporting to us easier. Those alternatives are outlined in subsection (2) of this section. In other cases, the department

may authorize some other method in assuming workers hours for premium calculation purposes.

(2) What are the alternatives to actual hours worked?

The exceptions are:

- **Apartment house managers, caretakers, domestic, home care or similar employees:** To determine the number of hours you need to report to us, divide an employee's total compensation, including housing and utility allowances, by the average hourly wage for the classification. The total number of work hours to be reported for each employee is not to exceed 520 hours per quarter. You will need to call us at (360) 902-4817 to obtain average hourly wage information.
- **Baseball, basketball, and soccer teams as defined in WAC 296-17-745 - including players, coaches, trainers, and officials:** Report each individual at 40 hours per week for each week in which they have duties.
- **Commission employees - outside (such as, but not limited to, real estate and insurance sales):** You must select one of the following methods to report your commission employees - outside:
 - Actual hours worked; or
 - Assumed hours of eight hours per day for part-time employees or one hundred-sixty hours per month for full-time employees.

All outside commission employees of an employer must be reported by the same method. You cannot report some outside commission employees based on the actual hours they work and others using the eight hours per day for part-time employees or one hundred-sixty hours per month for full-time employees method.
- **Drywall - stocking, installation, scrapping, taping, and texturing:** Premiums are based on material installed/finished rather than the hours it took to install/finish the drywall.
- **Horse racing - excluding jockeys:** Employers in the horse racing industry pay premiums based on a type of license their employees hold rather than the hours the employees work. Premiums are collected by the Washington horse racing commission at the time of licensing.
- **Jockeys:** Report ten hours for each race/mount or for any day in which duties are reported.
- **Pilots and flight crew members(=):** Pilots and flight crew members having flight duties during a work shift including preflight time shall have premium calculated by utilizing daily readings logged per federal requirements of the aircraft tachometer time: Provided, That if the total tachometer time for any day includes a fraction of an hour, the reportable time will be increased to the next full hour: Provided further, That pilots and flight crew members who assume nonflying duties during a work shift will have premium calculated in accordance with the appropriate rules and classifications applicable to nonflight duties.
- **Race car drivers:** Report ten hours for each race/heat.
- **Salaried employees:** You must select one of the following methods to report your salaried employees:
 - Actual hours worked; or
 - Assumed hours of one hundred-sixty hours per month.

All salaried employees of an employer must be reported by the same method. You cannot report some salaried employees based on the actual hours they work and others using the one hundred sixty hours per month method. Provided further, as in the case of contract personnel employed by schools and/or school districts, the school or school district shall report actual hours worked for each employee, one hundred sixty hours per month for each employee, or the department *may* authorize some other method in assuming workers hours for premium calculation purposes.

(3) Can I use assumed work hours for piece workers?

No, if you employ piece workers you must report the actual hours these individuals work for you unless another unit of exposure is required.

Example: If you have employees engaged in drywall work you would report and pay premiums on the basis of the square footage of the material they installed not the hours they worked.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-35203 Special reporting instruction. (1) Professional and semiprofessional athletic teams. Athletes assigned to a Washington-domiciled sports team are mandatorily covered by Washington industrial insurance: Provided, That a professional athlete who is under contract with a parent team domiciled outside of the state of Washington while assigned to a team domiciled within Washington is subject to mandatory coverage by Washington industrial insurance unless the player and employer (parent team) have agreed in writing as to which state shall provide coverage in accordance with RCW 51.12.120(5).

The following rules shall apply to the written agreement:

(a) Agreement must be in writing and signed by the employer and the individual athlete.

(b) Agreement must specify the state that is to provide coverage. The state agreed upon to provide coverage must be a state in which the player's team, during the course of the season, will engage in an athletic event. For example, if the Washington-based team is a part of a league with teams in only Washington, Oregon, and Idaho, the player and the employer can agree to any of those three states to provide coverage. However, they could not agree to have California provide the coverage as this would not qualify as a state in which the player regularly performs assigned duties.

(c) The state agreed upon accepts responsibility for providing coverage and acknowledges such to the department by certified mail.

(d) Agreement and certification by the other state must be received by this department's underwriting section prior to any injury incurred by the athlete.

(e) Agreement will be for one season only commencing with the assigning of the player to a particular team. A separate agreement and certification must be on file for each additional season.

Failure to meet all of these requirements will result in the athlete being considered a Washington worker for premium and benefit purposes until such time as all requirements have been met.

Professional sports teams who are domiciled outside the state of Washington and who participate in sporting events with Washington-domiciled teams are not subject to Washington industrial insurance for their team members while in this state. These out-of-state teams are not considered employers subject to Title 51 on the basis that they are not conducting a business within this state.

(2) **Excluded employments.** Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried-part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried-part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) **Special trucking industry rules.** The following subsection shall apply to all trucking industry employers as applicable.

(a) Insurance liability. Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be self-insured with the state of Washington.

Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate and foreign commerce must insure their workers' compensation insurance liability for their Washington employees with the Washington state fund, be self-insured with the state of Washington, or provide workers' compensation insurance for their Washington employees under the laws of another state when such other state law provides for such coverage.

Interstate or foreign commerce trucking employers who insure their workers' compensation insurance liability under the laws of another state must provide the department with copies of their current policy and applicable endorsements upon request.

Employers who elect to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when requested to do so will be declared an unregistered employer and subject to all the penalties contained in Title 51 RCW.

(b) Reporting. Trucking industry employers insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.

Employers are to report actual hours worked, including time spent loading and unloading trucks, for each driver in their employ. For purposes of this section, actual hours

worked does not include time spent during lunch or rest periods or overnight lodging.

Failure of employers to keep accurate records of actual hours worked by their employees will result in the department estimating work hours by dividing gross payroll wages by the state minimum wage for each worker for whom records were not kept. However, in no case will the estimated or actual hours to be reported exceed five hundred twenty hours per calendar quarter for each worker.

(c) Exclusions. Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.

(i) Must be engaged exclusively in interstate or foreign commerce.

(ii) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.

(iii) After having elected coverage, withdrew such coverage in writing to the department on or before January 2, 1987.

If all the conditions set forth in (i), (ii), and (iii) of this subsection have not been met, employers must insure their workers' compensation insurance liability with the Washington state fund or under the laws of another state.

(d) Definitions. For purposes of interpretation of RCW 51.12.095(1) and administration of this section, the following terms shall have the meanings given below:

(i) "Agents" means individuals hired to perform services for the interstate or foreign commerce carrier that are intended to be carried out by the individual and not contracted out to others but does not include owner operators as defined in RCW 51.12.095(1).

(ii) "Contacts" means locations at which freight, merchandise, or goods are picked up or dropped off within the boundaries of this state.

(iii) "Doing business" means having any terminals, agents or contacts within the boundaries of this state.

(iv) "Employees" means the same as the term "worker" as contained in RCW 51.08.180.

(v) "Terminals" means a physical location wherein the business activities (operations) of the trucking company are conducted on a routine basis. Terminals will generally include loading or shipping docks, warehouse space, dispatch offices and may also include administrative offices.

(vi) "Washington" shall be used to limit the scope of the term "employees." When used with the term "employees" it will require the following test for benefit purposes (all conditions must be met).

- The individual must be hired in Washington or must have been transferred to Washington; and
- The individual must perform some work in Washington (i.e., driving, loading, or unloading trucks).

(4) **Forest, range, or timber land services—Industry rule.** Washington law (RCW 51.48.030) requires every employer to make, keep, and preserve records which are adequate to facilitate the determination of premiums (taxes) due to the state for workers' compensation insurance coverage for their covered workers. In the administration of Title 51 RCW, and as it pertains to the forest, range, or timber land

services industry, the department of labor and industries has deemed the records and information required in the various subsections of this section to be essential in the determination of premiums (taxes) due to the state fund. The records so specified and required, shall be provided at the time of audit to any representative of the department who has requested them.

Failure to produce these required records within thirty days of the request, or within an agreed upon time period, shall constitute noncompliance of this rule and RCW 51.48.030 and 51.48.040. Employers whose premium computations are made by the department in accordance with (d) of this subsection are barred from questioning, in an appeal before the board of industrial insurance appeals or the courts, the correctness of any assessment by the department on any period for which such records have not been kept, preserved, or produced for inspection as provided by law.

(a) General definitions. For purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Actual hours worked" means each workers' composite work period beginning with the starting time of day that the employees' work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by the employee.

(ii) "Work day" shall mean any consecutive twenty-four-hour period.

(b) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for three full calendar years following the calendar year in which the employment occurred:

(i) The name of each worker;

(ii) The Social Security number of each worker;

(iii) The beginning date of employment for each worker and, if applicable, the separation date of employment for each such worker;

(iv) The basis upon which wages are paid to each worker;

(v) The number of units earned or produced for each worker paid on a piece-work basis;

(vi) The risk classification(s) applicable to each worker;

(vii) The number of actual hours worked by each worker, unless another basis of computing hours worked is prescribed in WAC 296-17-31021. For purposes of chapter 296-17 WAC, this record must clearly show, by work day, the time of day the employee commenced work, and the time of day work ended;

(viii) A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each work day;

(ix) In the event a single worker's time is divided between two or more risk classifications, the summary contained in (b)(viii) of this subsection shall be further broken down to show the actual hours worked in each risk classification for the worker;

(x) The workers' total gross pay period earnings;

(xi) The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld;

(xii) The net pay earned by each such worker.

(c) Business, financial records, and record retention. Every employer is required to keep and preserve all original time records completed by their employees for a three-year period. The three-year period is specified in WAC 296-17-352 as the composite period from the date any such premium became due.

Employers who pay their workers by check are required to keep and preserve a record of all check registers and cancelled checks; and employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(d) Recordkeeping - estimated premium computation. Any employer required by this section to make, keep, and preserve records containing the information as specified in (b) and (c) of this subsection, who fails to make, keep, and preserve such records, shall have premiums calculated as follows:

(i) Estimated worker hours shall be computed by dividing the gross wages of each worker for whom records were not maintained and preserved, by the state's minimum wage, in effect at the time the wages were paid or would have been paid. However, the maximum number of hours to be assessed under this provision will not exceed five hundred twenty hours for each worker, per quarter for the first audited period. Estimated worker hours computed on all subsequent audits of the same employer that disclose a continued failure to make, keep, or preserve the required payroll and employment records shall be subject to a maximum of seven hundred eighty hours for each worker, per quarter.

(ii) In the event an employer also has failed to make, keep, and preserve the records containing payroll information and wages paid to each worker, estimated average wages for each worker for whom a payroll and wage record was not maintained will be determined as follows: The employer's total gross income for the audit period (earned, received, or anticipated) shall be reduced by thirty-five percent to arrive at "total estimated wages." Total estimated wages will then be divided by the number of employees for whom a record of actual hours worked was not made, kept, or preserved to arrive at an "estimated average wage" per worker. Estimated hours for each worker will then be computed by dividing the estimated average wage by the state's minimum wage in effect at the time the wages were paid or would have been paid as described in (d)(i) of this subsection.

(e) Reporting requirements and premium payments.

(i) Every employer who is awarded a forest, range, or timber land services contract must report the contract to the department promptly when it is awarded, and prior to any work being commenced, except as provided in (e)(iii) of this subsection. Employers reporting under the provisions of (e)(iii) of this subsection shall submit the informational report with their quarterly report of premium. The report shall include the following information:

(I) The employers' unified business identification account number (UBI).

(II) Identification of the landowner, firm, or primary contractor who awarded the contract, including the name, address, and phone number of a contact person.

(III) The total contract award.

(IV) Description of the forest, range, or timber land services work to be performed under terms of the contract.

(V) Physical location/site where the work will be performed including legal description.

(VI) Number of acres covered by the contract.

(VII) Dates during which the work will be performed.

(VIII) Estimated payroll and hours to be worked by employees in performance of the contract.

(ii) Upon completion of every contract issued by a landowner or firm that exceeds a total of ten thousand dollars, the contractor primarily responsible for the overall project shall submit in addition to the required informational report described in (e)(i) of this subsection, report the payroll and hours worked under the contract, and payment for required industrial insurance premiums. In the event that the contracted work is not completed within a calendar quarter, interim quarterly reports and premium payments are required for each contract for all work done during the calendar quarter. The first such report and payment is due at the end of the first calendar quarter in which the contract work is begun. Additional interim reports and payments will be submitted each quarter thereafter until the contract is completed. This will be consistent with the quarterly reporting cycle used by other employers. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day immediately following the last day of the month following the calendar quarter.

(iii) A contractor may group contracts issued by a landowner, firm, or other contractor that total less than ten thousand dollars together and submit a combined quarterly report of hours, payroll, and the required premium payment in the same manner and periods as nonforestation, range, or timber land services employers.

(f) Out-of-state employers. Forest, range, or timber land services contractors domiciled outside of Washington state must report on a contract basis regardless of contract size for all forest, range, or timber land services work done in Washington state. Out-of-state employers will not be permitted to have an active Washington state industrial insurance account for reporting forest, range, or timber land services work in the absence of an active Washington forest, range, or timber land services contract.

(g) Work done by subcontract. Any firm primarily responsible for work to be performed under the terms of a forest, range, or timber land services contract, that subcontracts out any work under a forest, range, or timber land services contract must send written notification to the department prior to any work being done by the subcontractor. This notification must include the name, address, Social Security number, farm labor contractor number, (UBI) of each subcontractor, and the amount and description of contract work to be done by subcontract.

(h) Forest, range, or timber land services contract release - verification of hours, payroll, and premium. The department may verify reporting of contractors by way of an on-site visit to an employers' work site. This on-site visit may include close monitoring of employees and employee work hours. Upon receipt of a premium report for a finished contract, the department may conduct an audit of the firm's payroll,

employment, and financial records to validate reporting. ~~((The department will notify the contractor, and))~~ The entity that awarded the contract ~~((, of))~~ can verify the status of the contractors' account ~~((immediately after verification))~~ online at the department's web site (www.lni.wa.gov) or by calling the account manager. The landowner, firm, or contractor ~~((s' premium liability))~~ will not be released from premium liability until the final report for the contract from the primary contractor and any subcontractors has been received and verified by the department.

(i) Premium liability - work done by contract. Washington law (RCW 51.12.070) places the responsibility for industrial insurance premium payments primarily and directly upon the person, firm, or corporation who lets a contract for all covered employment involved in the fulfillment of the contract terms. Any such person, firm, or corporation letting a contract is authorized to collect from the contractor the full amount payable in premiums. The contractor is in turn authorized to collect premiums from any subcontractor they may employ his or her proportionate amount of the premium payment.

To eliminate premium liability for work done by contract permitted by Title 51 RCW, any person, firm, or corporation who lets a contract for forest, range, or timber land services work must submit a copy of the contract they have let to the department and verify that all premiums due under the contract have been paid.

Each contract submitted to the department must include within its body, or on a separate addendum, all of the following items:

- (I) The name of the contractor who has been engaged to perform the work;
- (II) The contractor's UBI number;
- (III) The contractor's farm labor contractor number;
- (IV) The total contract award;
- (V) The date the work is to be commenced; a description of the work to be performed including any pertinent acreage information;
- (VI) Location where the work is to be performed;
- (VII) A contact name and phone number of the person, firm, or corporation who let the contract;
- (VIII) The total estimated wages to be paid by the contractor and any subcontractors;
- (IX) The amount to be subcontracted out if such subcontracting is permitted under the terms of the contract;
- (X) The total estimated number of worker hours anticipated by the contractor and his/her subcontractors in the fulfillment of the contract terms;

(j) Reports to be mailed to the department. All contracts, reports, and information required by this section are to be sent to:

The Department of Labor and Industries
Reforestation Team 8
P.O. Box 44168
Tumwater, Washington 98504-4168

(k) Rule applicability. If any portion of this section is declared invalid, only that portion is repealed. The balance of the section shall remain in effect.

(5) Logging and/or tree thinning—Mechanized operations—Industry rule. The following subsection shall apply to all employers assigned to report worker hours in risk classification 5005, WAC 296-17-66003.

(a) Every employer having operations subject to risk classification 5005 "logging and/or tree thinning - mechanized operations" shall have their operations surveyed by labor and industries insurance services staff prior to the assignment of risk classification 5005 to their account. Annual surveys may be required after the initial survey to retain the risk classification assignment.

~~(b) ((Every employer as a prerequisite of being assigned risk classification 5005 and having exposure (work hours) which is reportable under other risk classifications assigned to the employer shall be required to establish a separate sub-account for the purpose of reporting exposure (work hours) and paying premiums under this risk classification (5005). Except as otherwise provided for in this rule, only exposure (work hours) applicable to work covered by risk classification 5005 shall be reported in this subaccount. In the event that the employer's only other reportable exposure (work hours) is subject to one of the standard exception risk classifications, or the shop or yard risk classification then all exposure (work hours) will be reported under a single main account.~~

~~(e))~~ Every employer assigned to report exposure (work hours) in risk classification 5005 shall supply an addendum report with their quarterly premium report which lists the name of each employee reported under this classification during the quarter, the Social Security number of such worker, the piece or pieces of equipment the employee operated during the quarter, the number of hours worked by the employee during the quarter, and the wages earned by the employee during the quarter.

(6) Special drywall industry rule.

(a) What is the unit of exposure for drywall reporting? Your premiums for workers installing and finishing drywall (reportable in risk classifications 0540, 0541, 0550, and 0551) are based on the amount of material installed and finished, not the number of hours worked.

The amount of material installed equals the amount of material purchased or taken from inventory for a job. No deduction can be made for material scrapped (debris). A deduction is allowed for material returned to the supplier or inventory.

The amount of material finished for a job equals the amount of material installed. No deduction can be made for a portion of the job that is not finished (base layer of double-board application or unfinished rooms).

Example: Drywall installation firm purchases 96 4' x 8' sheets of material for a job which includes some double-wall installation. The firm hangs all or parts of 92 sheets, and returns 4 sheets to the supplier for credit. Drywall finishing firm tapes, primes and textures the same job. Both firms should report 2,944 square feet (4 x 8 x 92) for the job.

(b) I do some of the work myself. Can I deduct material I as an owner install or finish? Yes. Owners (sole proprietors, partners, and corporate officers) who have not elected coverage may deduct material they install or finish.

When you as an owner install (including scrap) or finish (including tape and prime or texture) only part of a job, you may deduct an amount of material proportional to the time you worked on the job, considering the total time you and your workers spent on the job.

To deduct material installed or finished by owners, you must report to the department by job, project, site or location the amount of material you are deducting for this reason. You must file this report at the same time you file your quarterly report:

$$\text{Total owners hours} \div (\text{owners hours} + \text{workers hours}) = \text{\% of owner discount.}$$

$$\text{\% of owner discount} \times (\text{total footage of job} - \text{subcontracted footage, if any}) = \text{Total owner deduction of footage.}$$

(c) Can I deduct material installed or finished by subcontractors? You may deduct material installed or taped by subcontractors you are not required to report as your workers. You may not deduct for material only scrapped or primed and textured by subcontractors.

To deduct material installed or taped by subcontractors, you must report to the department by job, project, site or location the amount of material being deducted. You must file this report at the same time you file your quarterly report. You must have and maintain business records that support the number of square feet worked by the subcontractor.

(d) I understand there are discounted rates available for the drywall industry. How do I qualify for them? To qualify for discounted drywall installation and finishing rates, you must:

(i) Have an owner attend two workshops the department offers (one workshop covers claims and risk management, the other covers premium reporting and recordkeeping);

(ii) Provide the department with a voluntary release authorizing the department to contact material suppliers directly about the firm's purchases;

(iii) Have and keep all your industrial insurance accounts in good standing (including the accounts of other businesses in which you have an ownership interest), which includes fully and accurately reporting and paying premiums as they come due, including reporting material deducted as owner or subcontractor work;

(iv) Provide the department with a supplemental report (filed with the firm's quarterly report) showing by employee the employee's name, Social Security number, the wages paid them during the quarter, how they are paid (piece rate, hourly, etc.), their rate of pay, and what work they performed (installation, scrapping, taping, priming/texturing); and

(v) Maintain accurate records about work you subcontracted to others and materials provided to subcontractors (as required by WAC 296-17-31013), and about payroll and employment (as required by WAC 296-17-35201).

The discounted rates will be in effect beginning with the first quarter your business meets all the requirements for the discounted rates.

Note: If you are being audited by the department while your application for the discounted classifications is pending, the department will not make a final decision regarding your rates until the audit is completed.

(e) Can I be disqualified from using the discounted rates? Yes. You can be disqualified from using the discounted rates for three years if you:

(i) Do not file all reports, including supplemental reports, when due;

(ii) Do not pay premiums on time;

(iii) Underreport the amount of premium due; or

(iv) Fail to maintain the requirements for qualifying for the discounted rates.

Disqualification takes effect when a criterion for disqualification exists.

Example: A field audit in 2002 reveals that the drywall installation firm underreported the amount of premium due in the second quarter of 2001. The firm will be disqualified from the discounted rates beginning with the second quarter of 2001, and the premiums it owed for that quarter and subsequent quarters for three years will be calculated using the nondiscounted rates.

If the drywall underwriter learns that your business has failed to meet the conditions as required in this rule, your business will need to comply to retain using the discounted classifications. If your business does not comply promptly, the drywall underwriter may refer your business for an audit.

If, as a result of an audit, the department determines your business has not complied with the conditions in this rule, your business will be disqualified from using the discounted classifications for three years (thirty-six months) from the period of last noncompliance.

(f) If I discover I have made an error in reporting or paying premium, what should I do? If you discover you have made a mistake in reporting or paying premium, you should contact the department and correct the mistake. Firms not being audited by the department who find errors in their reporting and paying premiums, and who voluntarily report their errors and pay any required premiums, penalties and interest promptly, will not be disqualified from using the discounted rates unless the department determines they acted in bad faith.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-503 Classification 0103.

0103-09 Drilling or blasting: N.O.C.

Applies to contractors engaged in drilling operations for others not covered by another classification (N.O.C.). Work contemplated by this classification includes, but is not limited to, well drilling for oil, gas or water; exploratory well drilling; and drilling of holes in rock for shot holes. Such drilling generally contemplates the digging of a hole using a rotating or pounding type tool. Equipment used by drilling contractors includes earth auger drills, jackhammers, drilling rigs, and bits which will vary in size depending upon the terrain or material to be drilled and the depth and size of holes to be drilled. This classification also includes blasting operations not covered by another classification (such as the blasting of rock in connection with highway, street or road construction).

This classification excludes drilling operations performed in connection with concrete or building construction

which is to be reported separately in the construction classification applicable for the work being performed; drilling done in connection with all types of underground or surface mining and quarry operations which is to be reported separately in the applicable mining classification; and blasting performed as part of building demolition which is to be reported separately in classification ~~((0506))~~ 0518.

0103-10 Geophysical exploration: Seismic detection of the mechanical properties of the earth

Applies to establishments engaged in geophysical exploration, by seismic detection, of the earth's subsurface. Work contemplated by this classification involves a seismograph work crew consisting of a party chief, a permit person, a surveyor, drillers, shooters, observers and a computer analyst. The seismic method utilizes a dynamite blast that simulates a miniature earthquake. The recorder of the vibrations is the sensitive earthquake detector which records the intense vibrations on a rapidly moving tape. The data collected from the tapes and photographic records are interpreted and a contour map of the rocks and their foundation to depths of several thousand feet is developed.

This classification excludes geophysical exploration without seismic detection which is to be reported separately in classification 1007.

AMENDATORY SECTION (Amending WSR 00-14-052, filed 7/1/00, effective 7/1/00)

WAC 296-17-52106 Classification 0514.

0514-00 Garage or overhead door: Installation, service or repair

Applies to contractors engaged in the installation, service or repair of garage or overhead doors made of wood(~~(:))~~ or metal(~~(-or aluminum))~~). As part of a new construction project, the installation usually occurs before the building or structure is painted. Garage or overhead door installation can also occur as a replacement to an existing door or as an alteration or addition to a building or structure. The process involves installing door tracks on both sides of the doorway, inserting the door, which usually consists of panels or sections, into the tracks, and attaching panels or sections to one another. This classification also includes the installation of automatic door openers when performed as a part of the garage or overhead door installation contract, and by the same contractor installing the doors.

This classification excludes the installation, service or repair of commercial automatic door openers when it is not performed as a part of the garage or overhead door installation contract which is to be reported separately in classification 0603; the installation, service or repair of residential automatic door openers when it is not performed as a part of the garage or overhead door installation contract which is to be reported separately in classification 0607; the installation of exterior glass doors and door frames such as nonautomatic and automatic opening doors at retail establishments or commercial buildings which are to be reported separately in classification 0511; the installation of interior or exterior doors and door frames when performed by a framing contractor as part of framing a wood frame building which is to be reported

separately in classification 0510; the installation of interior doors and door frames which is to be reported separately in classification 0513; the installation of wood, fiberglass or metal exterior doors as part of a nonwood frame building when performed by employees of the general contractor which is to be reported separately in classification 0518; and the repair or replacement of wood, fiberglass or metal doors on an existing building which is to be reported separately in classification 0516.

0514-01 Nonstructural additions to buildings or structures: Installation, removal, alteration, and/or repair

Applies to contractors engaged in the installation, removal, alteration, and/or repair of nonstructural additions to buildings or structures. Nonstructural (~~(iron, steel, brass or bronze))~~ metal additions include, but are not limited to, fire escapes, staircases, balconies, railings, roll down shutters, window or door lintels, protective window or door gratings, bank cages, decorative elevator entrances or doors, permanent stadium seating, and wall facades and facings. (~~(Shutters and similar decorative add-ons may be made of wood, vinyl or plastic-))~~) Generally, the process involves bolting, screwing, riveting, or welding these additions to the interior or exterior of buildings or structures. Contractors who operate a shop to prefabricate the additions are to be assigned the classification applicable for the shop manufacturing work being performed. When a contractor's business is assigned a manufacturing classification for shop operations, classification 5206, "Permanent yard or shop," is no longer applicable to the contractor's business for the storage of materials or repair of equipment.

This classification excludes sheet metal installation such as siding, gutters and downspouts, and nonstructural sheet metal patio covers/carports which are to be reported separately in classification 0519; the installation, repair or dismantling of portable bleachers or stages which is to be reported separately in classification 0603; and the erection of commercial metal carports, service station canopies, and structural iron or steel work as part of a building or structure which is to be reported separately in classification 0518.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-53504 Classification 1007.

1007-08 Geophysical exploration, N.O.C.

Applies to contractors engaged in geophysical exploration, with no core drilling, and without seismic detection, who are not covered by another classification (N.O.C.). The more common methods of geophysical exploration are gravitational, electric and magnetic. In the gravitational method, delicate pendulums and torsion balances capable of detecting differences in the gravitational pull of the earth at various places enable the geologist to tell where oil is likely to be found. There are two electrical methods, resistivity and inductive. In the resistivity method, measurements are taken on an ohmmeter, which indicate the resistivity of the subsurface. The inductive method is somewhat comparable, but instead of determining the resistivity of the subsurface formations, the conductivity is measured enabling the geologist to

determine the character of the subsurface being studied. The magnetic method is accomplished by means of a highly developed form of magnetic dipping needle with a telescope magnifier. The magnetic attraction exerted by magnetic rocks and formations causes the needle to deflect from its horizontal plane, thereby enabling a geologist to develop contour maps with lines of equal magnetic attraction. This classification includes prospectors who may specialize in particular instrumentation such as electrical, gravity, magnetic or seismic. The prospector studies structure of subsurface rock formations to locate petroleum deposits; conducts research using geophysical instruments such as seismograph, gravimeter, torsion balance, and magnetometer, pendulum devices, and electrical resistivity apparatus to measure characteristics of the earth; computes variations in physical forces existing at different locations and interprets data to reveal subsurface structures likely to contain petroleum deposits; and determines desirable locations for drilling operations. This classification includes prospecting for mineral ores and the testing of soil for percolation when performed by employees of an employer subject to this classification.

This classification excludes core drilling and seismic geophysical exploration which are to be reported separately in classification 0103, and geophysical crews employed by oil companies who are to be reported in the classification applicable to the business.

Special note: When assigning classifications 1007-08, 4901-16 - Geologists, and 0103-10 - Seismic geophysical exploration, care must be taken to look beyond the word "geologist" to determine the actual nature of the activities being performed.

1007-09 Testing and inspecting of pipelines using radiographic or X-ray analysis process by contractor at industrial plants or construction sites

Applies to establishments engaged in the testing or inspecting of pipelines or conduits for others, provided the testing or inspecting is not performed in conjunction with the construction of the pipeline. This classification includes testing or inspecting involving radiographic or X-ray analysis processes such as the X raying of containers, inspecting of utility lines, and the drawing of oil samples on-site when performed by employees of an employer subject to this classification. Classification 1007-09 is assigned primarily to field activities.

This classification excludes testing or inspecting done in conjunction with construction which is to be reported separately in the appropriate construction classification.

1007-15 Inspection and grading bureaus, N.O.C.; log scaling and grading bureaus; lumber inspection services; weigh scale attendants, N.O.C.; weather stations; rain-making - no aircraft

Applies to establishments operating as *inspection and grading bureaus*, not covered by another classification (N.O.C.), including, but not limited to, those involved in inspecting and grading commodities such as logs, lumber, shingles, shakes, poles, and railroad ties. The commodity is examined and stamped with a grademark which indicates the grade, species, producer's name or number and other pertinent data. A certificate of inspection may be issued in lieu of

a grademark. The purpose of the inspection is to grade, tally, and stamp only those products which meet certain required specifications and to cull those products which do not meet the established standards. *Log scaling and grading bureaus* measure the logs, and by applying log rule formulas, determine the net yield, usually expressed in board feet. A scale ticket containing descriptive data is attached to the end of the log. This classification also applies to *weigh scale attendants* not covered by another classification (N.O.C.), when the service is available to the general public, otherwise the weigh scale attendants are to be included in the basic classification of the business. This classification includes establishments engaged exclusively in such services as auto emission control testing, air flow balancing and testing, the balancing and testing of heating, ventilating and air conditioning systems, hydrostatic testing of such objects as boilers, tanks, pipes and fittings using compressed air or water pressure to detect leaks, the strength testing of building material such as, but not limited to, asphalt, concrete and steel; and the testing or inspecting of steel weldments. This classification also includes *weather stations* which observe and record weather conditions for use in forecasting, and which read weather instruments, including thermometers, barometers, and hygrometers to ascertain elements such as temperature, barometric pressure, humidity, wind velocity, and precipitation. Weather data is transmitted and received also from other stations. A fully automated (computerized) weather station can be reported under classification 4904. This classification also covers rainmaking without the use of aircraft.

Special note: Classification 1007, classification 5001, and classification 5004, shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.

1007-16 Foresters (to be assigned only by reforestation underwriter)

Applies to foresters engaged in forest management ((~~for others~~)). Foresters may plan and direct forestation or reforestation projects, map forest areas, estimate standing timber and future growth, or manage timber sales. Foresters also may plan cutting programs to assure continuous production of timber, and determine methods of cutting and removing timber with a minimum of waste and environmental damage. They may plan and design forest fire suppression and fire-prevention programs, plan and design construction of fire towers, trails, roads and fire breaks and may also plan and design projects for control of floods, soil erosion, tree diseases, and insect pests in forests. Foresters may specialize in one aspect of forest management.

This classification excludes manual labor or direct supervision of manual labor.

~~((**Special note:** Classification 1007, classification 5001, and classification 5004 shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.))~~

1007-18 Foresters and timber cruisers - scientific tree, forestry, and watershed studies (to be assigned only by reforestation underwriter)

Applies to establishments engaged in scientific tree studies for others. Scientific tree studies are research oriented; random sample plots are measured and data such as the size of trees, species, disease and insect or animal damage, and seedling mortality, are recorded. Plots are maintained where each tree is tagged, its genealogy recorded, and growth statistics entered. A scion (a detached living shoot or twig) may be grafted onto a root stock and detailed records maintained of its genealogy and growth. Other data, such as fertilizers used, also may be maintained. These test plots are sometimes referred to as progeny plots or progeny studies. This classification includes scientific studies of watersheds or watershed restoration which involves the evaluation of slopes, road systems, streams and the entire ecosystem (an ecological community with its physical environment, regarded as a unit). This classification also includes precommercial thinning layouts or pruning inspections to determine if an area is ready for thinning or pruning.

This classification excludes manual labor or direct supervision of manual labor.

Special note: Classification 1007, classification 5001, and classification 5004 shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.

1007-19 Timber cruisers (to be assigned only by reforestation underwriter)

Applies to timber cruisers engaged in cruising timber land to estimate the volume and quality of a timber stand through an on-site visual inspection ~~((for others))~~. A timber cruiser collects data concerning forest conditions for appraisal, sales, administration, logging, land use, and forest management planning. A forest area is traversed on foot in an established pattern and sampling techniques applied. The height and diameter of each tree in a test site is recorded as are defects such as rot and bends, to estimate the useable wood in each tree. From the data collected a summary report is prepared giving the timber types, sizes, condition and outstanding features of an area, such as existing roads, streams, and communication facilities. Trees may be marked with spray paint to denote trail, boundary, or for cutting.

This classification excludes manual labor or direct supervision of manual labor.

~~((**Special note:** Classification 1007, classification 5001, and classification 5004 shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.))~~

1007-20 Foresters and timber cruisers - tree auditing (to be assigned only by reforestation underwriter)

Applies to establishments engaged in tree auditing for others. This service is generally associated with new plantations and is the process of evaluating the quality and the rate

of planting of new trees, as well as surveying newly planted sites on a periodic schedule to determine the survival rate.

This classification excludes tree auditing services when planting is in process, which is to be reported separately in classification 5004, and manual labor or direct supervision of manual labor.

Special note: Classification 1007, classification 5001, and classification 5004 shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.

1007-21 Environmental and ecological surveyor services, N.O.C.

Applies to establishments engaged in providing environmental and ecological surveying services not covered by another classification (N.O.C.) for others. Environmental or ecological surveying firms typically serve as consultants to industrial or commercial enterprises, governmental agencies or private citizens. Environmental engineer is a term applied to engineering personnel who apply knowledge of chemical, civil, mechanical, or other engineering disciplines to preserve the quality of life by correcting and improving various areas of environmental concern, such as air, soil, or water pollution. Services include identifying and projecting potential environmental impact resulting from proposed projects, assessing the source, severity and extent of environmental damage resulting from human or natural causes, and recommending solutions to protect or regain the natural balance between organisms and their environment. Activities of environmental surveying/consulting establishments include, but are not limited to, locating archaeological sites for preservation, researching and collecting field data on birds and insects, preparing impact statement for landowners and developers, stream and fish monitoring, botanical surveys, wetland surveys, soil and ground water testing for contamination, air monitoring including industrial hygiene services, monitoring and testing at hazardous waste sites, providing advice on pollution control at its source, and developing a plan for cleaning up already recognized problems such as waste disposal sites, radon or asbestos contamination. Other services provided may include helping clients develop a system for complying with various governmental regulations. This classification includes employees of the environmental surveying service who conduct field work as well as those who are assigned to act as project managers or project superintendents to oversee the work of remediation contractors.

This classification excludes all types of remediation work which is to be reported separately in the classification applicable to the type of remediation work being performed, and surveyors employed by construction companies or other types of businesses who are to be reported separately in the applicable classifications.

Special note: When assigning classifications 1007 or 4901, care must be taken to look beyond the words "consulting" or "engineering" to determine the actual nature of the activities being performed. ~~((Classifications 1007 and 4901 shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses, each business has separate and~~

~~distinct employees, and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.)~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-614 Classification 3901.

3901-00 Bakeries - retail

Applies to establishments engaged in the baking of assorted goods such as, but not limited to, breads, cakes, pies, and pastries for retail sales ~~((to walk in customers))~~. This classification includes "deli" sections in retail bakeries where bakery products, and items such as soups, salads, sandwiches and beverages, are available for on-premises consumption. ~~((This classification also contemplates the occasional delivery of bakery items such as wedding cakes.))~~

This classification excludes commercial wholesale bakeries that bake products for sale to trade customers such as supermarkets, restaurants, and distributors which are to be reported separately in classification 3906, and specialty bake shops that produce single product lines such as cookies and donuts, which are to be reported separately in classification 3901-01.

3901-01 Bakeries - retail - specialty shops

Applies to establishments engaged in operating specialty bake shops where products are sold ~~((exclusively))~~ to ~~((walk in))~~ retail customers. A specialty bake shop is an establishment that makes and sells a single product line such as cookies, donuts, pies, or bagels to customers for consumption on or away from the premises. This classification includes related sales of beverages ~~((, as well as the occasional delivery of baked goods))~~.

This classification excludes commercial wholesale bakeries that bake products for sale to trade customers such as supermarkets, restaurants, and distributors which are to be reported separately in classification 3906, and retail bakeries engaged in the baking of assorted goods such as breads, cakes, pies, and pastries, for retail sales ~~((to walk in customers))~~ which are to be reported separately in classification 3901-00.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-646 Classification 4805.

4805-00 Nurseries, N.O.C.

Applies to establishments not covered by another classification (N.O.C.) that are engaged in the propagation and/or care of trees, shrubs, plants, and flowers pending sales to others. Nurseries can be categorized into two general groups in that some nurseries are actively engaged in the propagation of trees, plants, and shrubs from seed, grafting or cuttings, while others simply buy stock from growers and resell to the public or to commercial customers. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees, shrubs or plants, propagating trees, shrubs or plants, fertilizing, spraying, fumigating, watering and weeding plants, trees and shrubs, pruning trees and shrubs,

and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes incidental greenhouses which are typically maintained for the purpose of starting new plants, shrubs or trees and protecting plants from weather conditions. Greenhouses may also serve as holding areas for garden supplies, fertilizer, planting containers, and tools which are available for sale to the public. This classification also includes the incidental sale of bark, soils, decorative or crushed rock, and store operations. This classification does not apply to establishments engaged in propagating trees in connection with an orchard operation or Christmas tree farm which are to be reported separately in classification 4803 or classification 7307 as applicable, or to landscaping contractors who may raise plants, trees or shrubs to be used in connection with their own landscaping jobs who are to be reported separately in classification 0301 or 0308 as applicable.

This classification excludes establishments engaged in growing and harvesting flowers for sale to others which are to be reported separately in classification 4802 and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

4805-05 Nurseries: Tree

Applies to establishments engaged in the propagation and/or care of trees for sale. Nurseries can be categorized into two general groups in that some nurseries are actively engaged in the propagation of trees from seed and grafting while others simply buy stock from growers and resell to the public or commercial customers. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees, propagating trees, fertilizing, spraying, fumigating, watering, weeding, and pruning trees, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes incidental greenhouses which are typically maintained for the purpose of starting new trees and protecting them from weather conditions. Greenhouses may also serve as holding areas for garden supplies, fertilizer, planting containers, and tools which are available for sale to the public. This classification also includes the incidental sale of beauty bark, soils, decorative or crushed rock, and store operations.

This classification excludes establishments engaged in propagating trees in connection with an orchard operation or Christmas tree farm which are to be reported separately in classification 4803 or classification 7307 as applicable; land-

scaping contractors who may raise trees to be used in connection with their landscaping jobs who are to be reported separately in 0301 or 0308 as applicable; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

4805-06 Farms: Sod growing

Applies to establishments engaged in raising lawn sod for sale. Work contemplated by this classification includes, but is not limited to, preparing soil for new grass, planting grass seed, fertilizing, spraying, fumigating, watering, weeding, mowing grass, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. Sod farms may sell directly to the public from the farm or through landscape dealers and contractors.

This classification excludes the installation of sod at a customer's location; landscaping contractors who may raise sod to be used in connection with their landscaping jobs; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported in separately in the classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

4805-07 Farms: Aquatic plants

Applies to establishments engaged in the propagation of aquatic plants for sale. Work contemplated by this classification includes, but is not limited to, preparing aquatic tanks, fresh water ponds or salt water growing areas for new plants, care of aquatic growing beds including chemical treatments of beds to eliminate undesirable vegetation, and harvesting and packaging plants when performed by employees of an employer subject to this classification. Aquatic farms may sell plants directly to the public from the farm or through dealers and unrelated stores. This classification includes farm store operations.

This classification excludes establishments engaged in the harvesting, processing, or packaging of aquatic plants obtained from natural areas, where the husbandry of the resource is not an integral part of the operation, which are to be reported separately in classification 3304 and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

4805-08 Farms: Shellfish(~~hand~~ harvesting)

Applies to establishments engaged in the propagation, and (~~hand~~) harvesting, of shellfish for sale. Work contemplated by this classification includes, but is not limited to, preparing aquatic tanks or salt water growing areas for shellfish; care of aquatic growing beds including chemical treatments of beds to eliminate undesirable vegetation; and harvesting, shucking and packaging shellfish when performed by employees of an employer subject to this classification. Shellfish farms may sell directly to the public from a farm stand or store, located at or near the farm, or to dealers and unrelated stores.

This classification excludes establishments engaged in the harvesting, processing or packaging of shellfish obtained from natural areas of nonnavigable waters where the husbandry of the resource is not an integral part of the operation which are to be reported separately in classification 3304, employees working on or from a vessel, as a captain or member of that vessel's crew, who are to be insured under the federal Jones Act according to the provisions of maritime law, and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special notes: The distinction between risks assigned to this classification (4805-08) and those which are (~~to be reported separately in classification 4808~~) subject to the federal Jones Act is in the (~~harvesting process~~) location of the work activity. Risks subject to classification 4805 are engaged in hand harvesting activities which includes the use of hand held tools or mechanical harvesting operations not on navigable waters, while those (~~assigned to classification 4808~~) subject to the Jones Act are engaged in (~~mechanical harvesting~~) activities (~~by way of dredging operations~~) on a vessel while on navigable waters. The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as seeding of larvae to mother shells and planting shells to natural waters. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in

the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to.

4805-09 Christmas tree sales from U-cut or retail sales lots

Applies to establishments engaged in retail sales of Christmas trees. Work contemplated by this classification is limited to placing trees in stands or on racks for display purposes, showing trees to retail customers, cashiering, monitoring and directing traffic in the sales lot area, and loading trees into customer vehicles. Tree sales may be conducted at a farm location as in the case of a U-cut tree operation or at a seasonal sales lot.

This classification excludes all farming operations such as, but not limited to, preparation of soil for new trees, propagating and planting trees, fertilizing, spraying, fumigating, watering, weeding, pruning, and harvesting of trees, maintaining or installing sprinkler or irrigation systems which are to be reported separately in classification 7307; Christmas tree wholesalers and Christmas tree baling and packing operations which are to be reported separately in classification 7307; and contractors hired to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special notes: Establishments assigned to this classification (4805-09) should report hours in this classification *only during the fourth quarter of each year* since these sales are confined to the Christmas season. The farm labor contractor provision is not applicable to this classification as such establishments are not engaged in a farming operation.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-650 Classification 4901.

**4901-00 Consulting engineering
Architectural services, N.O.C.**

Applies to establishments engaged in providing consulting engineering services, construction management or consulting services, or architectural services not covered by another classification (N.O.C.). Engineers consult with and give technical advice to clients through the use of plans, maps, charts, specifications or other media. They may specialize in particular fields of endeavor such as aeronautical, chemical, civil, electrical, industrial, marine, mechanical or structural engineering. Engineers may research, design and develop a plan, a part, a piece of equipment, or a structure and may also build prototypes and models. Architects research, plan and design building projects for clients, applying knowledge of design, construction procedures, zoning and building codes, and building materials. They may enlist the services of engineers to provide specialized technical services or to solve specific problems. Architects may specialize in certain types of facilities such as hotels, hospitals, or industrial plants, or in the restoration of older structures, or may confine their practice to residential work. They also may be involved

in the design of transportation facilities, public assembly complexes, marine or public utility projects. This classification includes employees of engineering or architectural services who perform surveys or who act as project managers or project superintendents for their employer's engineering or architectural projects. Businesses which specialize in offering construction management and/or consulting services, which are not involved in designing, engineering, or any of the actual construction activities, are also included in this classification.

This classification excludes draftsmen whose duties are limited to office work, who may be reported separately in classification 4904 provided the conditions set forth in the standard exception rule have been met, and the engineering and architectural staff of construction companies or other types of businesses who are to be reported in the classifications applicable for those businesses.

Special note: When assigning classifications 4901 or 1007, care must be taken to look beyond the words "consulting" or "engineering" to determine the actual nature of the activities being performed. (~~Classifications 4901 and 1007 shall not be assigned to the same business unless all the conditions of the general reporting rules covering the operation of a secondary business have been met.~~)

4901-16 Geologists, N.O.C.

Applies to establishments engaged in providing geological services, including oil or gas geologists or scouts and lease buyers performing work similar to oil geologists, not covered by another classification. Geologists study the composition, structure, and history of the earth's crust to identify and determine the sequence of processes affecting the development of the earth. By applying knowledge of chemistry, physics, biology and mathematics to explain these phenomena, they help locate mineral, geothermal, petroleum, and underground water resources. They will consult with and give technical advice to clients based on their findings. Projects may include, but are not limited to, landslide analysis and correction, rock slope design, rock fall mitigation and control, and soil cut and embankment design. They also prepare geologic reports and maps, interpret research data, recommend further study or action, and may participate in environmental studies. Duties of oil or gas geologists or scouts and lease buyers include, but are not limited to, reviewing court records, interviewing lease holders, securing data for prospective oil or gas producing land, as well as procuring core or shale samples at drilling locations for analyzing. The oil or gas geologist also may explore and chart stratigraphic arrangement and structure of the earth to locate gas and oil deposits, evaluate results of geophysical prospecting, prepare maps and diagrams indicating probable deposits of gas and oil, as well as estimate oil reserves in proven or prospective fields and visit drilling sites. Scouts keep the client company informed of events in their region, attend local meetings, and report the findings on work.

This classification excludes geophysical exploration which is to be reported separately in classification 1007; seismic geophysical exploration which is to be reported separately in classification 0103; and geologists or scouts of a drilling or construction contractor who are to be reported sep-

arately in the classification applicable to the employer's business.

Special note: When assigning classifications 4901-16, geologists, 1007-08, geophysical exploration, and 0103, seismic geophysical exploration, care must be taken to look beyond the word "geologist" to determine the actual nature of the activities being performed.

4901-17 Land surveying services, N.O.C.

Applies to establishments engaged in providing professional land surveying services not covered by another classification (N.O.C.). Land surveyors measure the size and physical characteristics of earth surfaces to determine precise location and measurements of points, elevations, lines, areas, contours and boundaries for private, public, and commercial applications. Some firms also perform marine, mine, forestry, geological and photogrammetric surveys which utilize sophisticated instruments and techniques, including aerial photography. The field data collected by surveyors may be used to produce maps and architectural and civil engineering plans and drawings. Maps and drawings may be produced by drafters who plot out the field data by hand or by using computer-aided drafting programs.

This classification excludes draftsmen whose duties are limited to office work, who may be reported separately in classification 4904 provided all the conditions of the general reporting rules covering standard exception employees have been met, and surveyors employed by construction companies or other types of businesses who are to be reported separately in the applicable classifications for those businesses.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-743 Classification 6803.

6803-01 Flight instruction

Applies to flight instructors employed by establishments who provide flight instruction services. This classification applies only to the pilot operating or overseeing the aircraft during the flight lesson.

This classification excludes classroom flight instruction which is to be reported separately in classification 6103 and ground crew operations which are to be reported separately in classification 6804.

6803-02 Private aircraft - transportation of personnel in connection with the employer's business

Applies to members of a flight crew who operate private aircraft owned by a business and used for the transportation of company personnel in connection with the company's business. Aircraft operation is subject to the general exclusion section of the general rules which allows all other hours worked by these same personnel to be reported separately in the applicable classification.

This classification excludes ground crew operations which are to be reported separately in classification 6804.

6803-04 Aircraft operations, N.O.C. and nonscheduled airlines - flight crews

Applies to members of the flight crew for aircraft operations not covered by another classification (N.O.C.) and

flight crews employed by an employer operating a nonscheduled airline. Nonscheduled airlines, such as a charter service, do not have definite dates, routes, and times for departures and arrivals but make their services available to the public as needed. Operations not covered by another classification could include, but not be limited to, an aircraft used for sky-writing/advertising, helicopter-assisted hoisting of large or heavy objects in connection with construction projects and helicopter-assisted removal of logs from a logging site.

This classification excludes ground crew operations which are to be reported separately in classification 6804; establishments engaged in aerial spraying, seeding, crop dusting, and fire fighting which are to be reported separately in classification 6903; logging ground crews of a helicopter logging operation which are to be reported separately in classification 5001; and clerical and ticket sellers with no other duties which may be reported separately in classification 4904.

AMENDATORY SECTION (Amending WSR 03-20-081, filed 9/30/03, effective 1/1/04)

WAC 296-17-76212 Classification 7121.

7121-00 Temporary staffing services: Logging; tree removal service; stump grinding services; shake or shingle mills; aircraft flight crew members

This classification applies to all employees of a temporary staffing company who are assigned on a temporary basis to a client customer and who are engaged in any phase of logging or aircraft operations or who are assigned to work in (~~any lumbering mill~~) shake or shingle mills, including equipment or machinery operators related to industries subject to this classification.

NEW SECTION

WAC 296-17-76601 Classification 7205.

Life and rescue - Emergency workers

Applies to employees of nongovernmental employers provided in response to a request for assistance by a state or local official in the "life and rescue phase" of a declared emergency. This classification is only applicable for reporting the exposures (worker hours and claims) of nongovernmental employees occurring during this phase of the declared emergency. The phrase "life and rescue phase" is defined in RCW 51.16.130(3) as being the first seventy-two hours after a natural or man-made disaster has occurred. To qualify for this special classification, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing disaster survivors.

AMENDATORY SECTION (Amending WSR 04-10-045, filed 4/30/04, effective 6/1/04)

WAC 296-17-870 Evaluation of actual losses. Except as provided in the following subsections of this paragraph, actual losses shall include all payments as of the "valuation date" for each claim arising from an accident occurring dur-

ing the experience period. Losses for claims open as of the valuation date may also include a reserve for future payments. Actual losses on claims for accidents occurring outside of the experience period shall not be included.

(1) **Valuation date.** The valuation date shall be on and include December 31, one year and one day immediately preceding the effective date of premium rates as set forth in WAC 296-17-895. For experience modifications effective January 1, 1990, and thereafter, the valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

(2) **Retroactive adjustments - revision of losses between valuation dates.** No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

(a) In cases where loss values are included or excluded through mistake other than error of judgment.

(b) In cases where a third party recovery is made, subject to subsection (4)(a) of this section.

(c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.

(d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).

(e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the claim was included. Retroactive adjustments will not be made for rating periods more than ten years prior to the date on which the claim status was changed.

(3) **Average death value.** Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value." The "average death value" shall be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in WAC 296-17-880 (Table II).

(4) **Third-party recovery - effect on experience modification.**

(a) For claims with injury dates prior to July 1, 1994, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of actual losses until such time as the third-party action has been completed. If a third-party recovery is made after a claim had previously been used in an experience modification calculation, the experience modification shall be retroactively adjusted. The department shall compute a percentage recovery by dividing the current valuation of the claim into the amount recovered or recoverable as of the recovery date, and shall reduce both primary and excess losses previously used in the experience modification calculation by that percentage.

(b) For claims with injury dates on or after July 1, 1994, if the department determines that there is a reasonable potential of recovery from an action against a third party, both pri-

mary and excess values of the claim shall be reduced by fifty percent for purposes of experience modification calculation, until such time as the third-party action has been completed. This calculation shall not be retroactively adjusted, regardless of the final outcome of the third-party action. After a third-party recovery is made, the actual percentage recovery shall be applied to future experience modification calculations.

(c) For third-party actions completed before July 1, 1996, the claim shall be credited with the department's net share of the recovery, after deducting attorney fees and costs. For third-party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.

(d) **Definitions:**

(i) As used in this section, "recovery date" means the date the money is received at the department or the date the order confirming the distribution of the recovery becomes final, whichever comes first.

(ii) As used in this section, "recoverable" means any amount due as of the recovery date and/or any amount available to offset case reserved future benefits.

(5) **Second injury claims.** The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

(6) **Occupational disease claims.** When a claim results from an employee's exposure to an occupational disease hazard, the "date of injury," for the purpose of experience rating, will be the date the disability was diagnosed and that gave rise to the filing of a claim for benefits. The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for at least ten percent of the claimant's exposure to the hazard, shall be charged for his/her share of the claim based upon the prorated costs.

(7) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in WAC 296-17-880 (Table II).

(8) **Catastrophic losses.** Whenever a single accident results in the deaths or total permanent disability of three or more workers employed by the same employer, costs charged to the employer's experience shall be limited as required by RCW 51.16.130.

(9) **Acts of terrorism.** Whenever any worker insured with the state fund sustains an injury or occupational disease as a result of an incident certified to be an act of terrorism under the U.S. Terrorism Risk Insurance Act of 2002, the costs of the resulting claim shall be excluded from the experience rating computation of the worker's employer.

(10) **Claims filed by preferred workers.** The costs of subsequent claims filed by certified preferred workers will not be included in experience calculations, as provided in WAC 296-16-010.

(11) Life and rescue phase of emergencies: This provision applies to "emergency workers" of nongovernmental employers assigned to report in classification 7205 (WAC 296-17-76601) who assist in a life and rescue phase of a state or local emergency (disaster). The life and rescue phase of an emergency is defined in RCW 51.16.130(3) as being the first seventy-two hours after a natural or man-made disaster has occurred. For an employer to qualify for this special experience rating relief, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing survivors. This special relief is only applicable to nongovernmental employers during this initial seventy-two hour phase of the declared emergency unless the emergency has been extended by the official who declared the emergency. The cost of injuries or occupational disease claims filed by employees of nongovernmental employers assisting in the life and rescue phase of a declared emergency will not be charged to the experience record of the nongovernmental state fund employer.

AMENDATORY SECTION (Amending WSR 04-20-023, filed 9/28/04, effective 11/1/04)

WAC 296-17-517 Classification 0502.

0502-04 Carpet, vinyl, tile and other floor or counter top covering: Installation or removal

Applies to contractors engaged in the installation or removal of floor or counter top coverings such as, but not limited to, wall to wall carpet, vinyl, laminate, ((☒)) tile, or artificial turf in residential or commercial settings. Work contemplated by this classification includes, but is not limited to, the installation and/or removal of foam or rubber padding, floor coverings such as rugs or carpet, tack strips, door strips, subflooring (particle board or plywood), linoleum, vinyl, base board or door strips, and hauling existing floor covering debris away. This classification also includes the installation of clay or ceramic tiles on counter tops and backsplashes.

This classification excludes contractors engaged in the installation of counter tops as part of an interior finish carpentry or cabinetry contract which is to be reported separately in classification 0513; the installation of hardwood floors which is to be reported separately in classification 0513; the installation of decorative brick, slate, marble or granite which is to be reported separately in classification 0302; installation of roofing tiles which is to be reported separately in classification 0507; and floor covering stores which are to be reported separately in the applicable classification.

0502-99 Carpet, vinyl, tile and other floor or counter top covering: Installation or removal (only to be assigned by the floor covering specialist)

Applies to floor covering contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

Special note: Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-698 Classification 6303.

6303-00 Outside sales personnel, N.O.C.; messengers

Applies to those employees whose job duties and work environment meet *all* the conditions of the general reporting rules covering outside sales personnel, and who are not covered by another classification (N.O.C.) assigned to the employer's account. Duties of outside sales personnel contemplated by this classification are limited to soliciting new customers by telephone or in person, showing, selling, and explaining products or services, servicing existing accounts, completing correspondence, placing orders, performing public relations duties, and estimating. Duties of messengers are limited to delivering interoffice mail, making deposits, and similar duties that are exclusively for the administration of the employer's business.

This classification excludes the delivery of products or merchandise or the stocking of shelves which is to be reported separately as applicable; the demonstration or delivery of machinery or equipment which are to be reported separately as applicable, establishments engaged as collection agencies or public relations agencies which are to be reported separately in classification 5301; establishments engaged in providing inspection and valuations exclusively for insurance companies which are to be reported separately in classification 4903.

Special note: When considering this classification care must be taken to look beyond titles of employees. Employees with occupational titles such as, but not limited to, collectors, counselors, consultants, or appraisers may or may not qualify for this classification. This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

6303-03 Insurance sales personnel and claims adjusters

Applies to insurance sales personnel and claims adjusters with outside duties. Duties of employees subject to this classification are limited to selling insurance policies at their place of business or at the client's home, or going to the scene of an accident or catastrophe to assess damage. Work may be performed within an office or away from the employer's premises.

Special note: Individuals performing duties as an agent, broker, or solicitor (and hold a license as issued by the office of the insurance commissioner) are exempt from coverage as specified in RCW 51.12.020(11) and 48.17.010, 48.17.020, and 48.17.030. To elect voluntary coverage these individuals must submit a completed optional coverage form to the department.

6303-21 Home health care services: Social workers and dietitians

Applies to social workers and dietitians employed by home health care service establishments who provide care for handicapped individuals. Duties of these employees include teaching ((and assisting)) physically or developmentally disabled individuals in their own home to manage daily living skills such as caring for themselves, dressing, cooking, shopping, and going to the doctor. This classification also includes dietitians, sometimes called nutritionists, who usually are referred to patients by their physicians. The dietitian assesses the patient's current nutritional status, including current food intake, medical background, family history, currently prescribed medications, and social and psychological needs, then develops a food plan to meet the patient's needs. Employees subject to this classification do no cooking.

This classification excludes nursing and home health care services which are to be reported separately in classification 6110; therapy services which are to be reported separately in classification 6109; domestic servants who are to be reported separately in classification 6510; and chore workers who are to be reported separately in classification 6511.

Special note: This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met. *This classification is not to be assigned to any account that does not also have classification 6110 and/or 6511.*

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-680 Classification 6103.**6103-01 Schools: Academic, K-12 - clerical office, sales personnel, teachers, N.O.C. and administrative employees**

Applies to clerical office, sales personnel and administrative employees such as principals, assistant principals, receptionists, secretaries, counselors, school nurses, payroll and bookkeeping personnel, and teachers or teachers' aides of establishments engaged in operating public or private academic school facilities, K-12 (kindergarten level through grade 12).

This classification excludes all other types of employees in connection with the school facilities such as, but not limited to, cooks, bus drivers, custodians, maintenance personnel and grounds keepers, and teachers or teachers' aides who are exposed to machinery hazards such as a wood shop, metal shop, print shop, auto shop, and driver training instructors who are to be reported separately in classification 6104.

6103-02 Schools: Trade or vocational - clerical office, sales personnel, teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel and administrative employees such as deans, directors, assistant directors, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and professors or instructors of establishments engaged in operating trade or vocational school facilities. These types of schools provide specialized training and

instruction to prepare students for occupations in the chosen fields. Often these facilities will coordinate on-the-job training with employers as well as assist students in finding employment.

This classification excludes all other types of employees in connection with the school facilities such as, but not limited to, cooks, drivers, custodians, maintenance personnel and grounds keepers, and professors or instructors who are exposed to machinery hazards such as a wood shop, metal shop, print shop and auto shop who are to be reported separately in classification 6104.

6103-03 Libraries, N.O.C. - clerical office, sales personnel, teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel and administrative employees such as librarians, assistant librarians, receptionists, secretaries, and payroll and bookkeeping personnel of establishments engaged in operating library facilities not covered by another classification (N.O.C.). These types of facilities maintain a wide selection of reading materials such as books, journals, articles, magazines, publications, newspapers, and audio-visual or micrographic materials.

This classification excludes all other types of employees such as, but not limited to, custodians, maintenance personnel and grounds keepers, drivers, and storage room workers who are to be reported separately in classification 6104.

**6103-04 Churches - clerical office, sales personnel, teachers, N.O.C. and administrative employees
Bell ringers**

Applies to clerical office, sales personnel and administrative employees such as pastors, priests, reverends, clergymen, ushers, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and instructors of establishments engaged in operating church facilities for members of a religious congregation to meet and worship on a daily or weekly basis. Other services provided include, but are not limited to, sermons, rites, counseling, baptisms, weddings, funerals, bible school, and child care during church services and events. When a church is also operating a school facility, the church classifications are to be assigned for both operations. This classification also applies to bell ringers for charitable organizations.

This classification excludes all other types of employees in connection with the church facilities such as, but not limited to, custodians, maintenance personnel and grounds keepers, and drivers who are to be reported separately in classification 6104.

6103-05 Museums, N.O.C. - clerical office, sales personnel, teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel and administrative employees such as directors, assistant directors, buyers, coordinators, tour guides, receptionists, secretaries, and payroll and bookkeeping personnel of establishments engaged in operating museum facilities not covered by another classification (N.O.C.). Museums maintain a wide variety of artifacts, art, statues, sculptures, and other exhibit works.

This classification excludes all other types of employees such as, but not limited to, custodians, maintenance personnel

and grounds keepers (including exhibit set-up), drivers, packers, and warehousemen who are to be reported separately in classification 6104.

6103-06 Day nurseries or child day care centers - clerical office, sales personnel, teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel, and administrative employees such as teachers, teachers' aides and nurses of establishments engaged in operating day nurseries or day care centers for infants, toddlers, and children, or in providing baby-sitting services. Employees will instruct children in activities designed to promote social, physical, and intellectual growth in preparation for primary school. Most day care centers provide breakfast and lunch.

This classification excludes all other types of employees such as, but not limited to, custodians, cooks, maintenance personnel and grounds keepers, and drivers who are to be reported separately in classification 6104.

6103-10 Flight instructors - clerical office, sales personnel, classroom teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel, classroom instructors, and administrative employees of establishments engaged in providing classroom instruction to student pilots in flight procedures and techniques. Flight instructors explain various aircraft components and instruments for controlling aircraft during maneuvers, and, using flight simulators, demonstrate procedures such as, but not limited to, take-offs and landings.

This classification excludes all other types of employees such as, but not limited to, custodians, maintenance personnel and grounds keepers and drivers who are to be reported separately in classification 6104 and in-air flight instructors outside the classroom who are to be reported separately in the classification 6803.

Special note: Reporting rules are outlined in the division of worker hours provision in the general rules.

6103-11 Schools: N.O.C. - clerical office, sales personnel, classroom teachers, N.O.C. and administrative employees

Applies to classroom instructors, clerical office, sales personnel and administrative employees such as directors and assistant directors, coordinators, instructors, receptionists, secretaries, counselors, payroll and bookkeeping personnel of establishments engaged in providing specialized classroom instruction to students in schools which are not covered by another classification (N.O.C.). Schools include, but are not limited to, dance, modeling, music, driving, cooking, first aid, and schools for coaches. Modeling and dance schools emphasize poise, balance, facial gestures, self-confidence, and counseling in wardrobe and make-up. Music schools emphasize the disciplines of playing various instruments. Driving schools concentrate on the rules, principles, and coordination needed to drive safely, using textbooks, audiovisuals, and driving simulators.

This classification excludes all other types of employees in connection with the specialized school facilities such as, but not limited to, custodians, maintenance personnel ~~((and))~~, grounds keepers, and ballet dancers and instructors who perform activities not as part of a classroom environment who

are to be reported separately in classification 6104 and driving instructors outside of the classroom who are to be reported separately in classification 6301.

6103-12 Officials for amateur athletic or cultural events, N.O.C. - clerical office, teachers, N.O.C. and administrative employees

Applies to clerical office employees, administrative employees, and event officials of establishments engaged in providing officials such as, but not limited to, umpires or referees for amateur athletic or cultural events sponsored by schools or communities. Events include, but are not limited to, sports, spelling bees, debates, and musical competitions.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-681 Classification 6104.

6104-01 Schools: Academic, K-12 - all other employments, N.O.C.

Applies to all other employees of public or private academic schools K-12 (kindergarten level through grade 12). All other in this classification is defined as employees such as, but not limited to, cooks, bus drivers, custodians, maintenance personnel and grounds keepers, and teachers or teachers aides who are exposed to machinery hazards such as wood shop, metal shop, print shop, auto shop, and driver instructors.

This classification excludes clerical office, sales personnel and administrative employees such as principals, assistant principals, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and teachers or teachers' aides who have no exposure to machinery hazards who are to be reported separately in classification 6103.

6104-02 Schools: Trade or vocational - all other employments, N.O.C.

Applies to all other employees of trade or vocational schools. All other in this classification is defined as employees such as, but not limited to, cooks, drivers, driving instructors, custodians, maintenance personnel and grounds keepers, and teachers and teachers aides who are exposed to machinery hazards such as, but not limited to, those in wood shop, metal shop, automotive shops, and plumbing or electrical work. Vocational or trade schools provide specialized training and instruction to prepare students for occupations in their chosen field. Often these facilities will coordinate on-the-job training and assist students in finding employment.

This classification excludes clerical office, sales personnel and administrative employees such as deans, directors, assistant directors, receptionists, secretaries, counselors, payroll and bookkeeping personnel and teachers or teachers' aides who have no exposure to machinery hazards who are to be reported separately in classification 6103.

6104-03 Libraries, N.O.C. - all other employments, N.O.C.

Applies to all other employees of library facilities which are not covered by another classification (N.O.C.). All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel and grounds

keepers, drivers, and storage room workers. Libraries maintain a wide selection of reading materials such as books, journals, articles, magazines, publications, newspapers, and audio-visual or micrographic materials.

This classification excludes clerical office, sales personnel and administrative employees such as librarians, assistant librarians, receptionists, secretaries, and payroll and bookkeeping personnel who are to be reported separately in classification 6103.

6104-04 Churches - all other employments, N.O.C.

Applies to all other employees of churches. All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel, grounds keepers, and drivers. Services offered by a church include, but are not limited to, providing a place for members of a religious congregation to meet and worship on a daily or weekly basis, sermons, rites, counseling, baptisms, weddings, funerals, bible school, child care during church services and events.

This classification excludes clerical office, sales personnel and administrative employees such as pastors, priests, reverends, clergymen, ushers, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and instructors who are to be reported separately in classification 6103.

6104-05 Museums, N.O.C - all other employments, N.O.C.

Applies to all other employees of establishments engaged in operating museum facilities not covered by another classification (N.O.C.). All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel and grounds keepers (including exhibit set-up), drivers, packagers, and warehousemen. Museums maintain a wide selection of artifacts, art, statues, sculptures, and other exhibit works.

This classification excludes clerical office, sales personnel and administrative employees such as museum directors, assistant museum directors, buyers, coordinators, tour guides, receptionists, secretaries, and payroll and bookkeeping personnel who are to be reported separately in classification 6103.

6104-06 Day nurseries or child day care centers - all other employments, N.O.C.

Applies to all other employees of establishments engaged in operating day nurseries or day care centers for infants, toddlers, and children, which provide activities to promote social, physical, and intellectual growth in preparation for primary school. All other in this classification is defined as employees such as, but not limited to, custodians, cooks, maintenance personnel and grounds keepers, and drivers.

This classification excludes clerical office, sales personnel and administrative employees such as principals, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and teachers or teachers' aides who are to be reported separately in classification 6103.

6104-11 Schools: N.O.C - all other employments, N.O.C.

Applies to all other employees of establishments engaged in providing specialized classroom instruction to students in schools which are not covered by another classification (N.O.C.) such as, but not limited to, dance, modeling, music, cooking, first aid, and schools for coaches. All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel and grounds keepers, and instructors or teachers or ballet dancers who perform activities not as part of a classroom environment or who are exposed to machinery hazards.

This classification excludes administrative employees such as directors and assistant directors, coordinators, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and classroom instructors, who are to be reported separately in classification 6103 and driving instructors outside of the classroom who are to be reported separately in classification 6301.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-73111 Classification 6620.

6620-00 Entertainers, N.O.C.

Applies to establishments or individuals providing entertainment of a strenuous nature for a fee, donation or free of charge. For classification purposes, strenuous entertainment includes activities such as, but not limited to, (~~ballet~~) dancing, skating, gymnastics, or performing stunts.

This classification excludes actors, players, performers, entertainers, or musicians whose routines or performances are not of a physical or strenuous nature who are to be reported separately in classification 6605.

Special note: Classifications 6620 and 6605 may be assigned to a single establishment provided the establishment maintains accurate records which distinguishes entertainers whose routines are of a physical and strenuous nature, from the routines which are not physical or strenuous. Care should be exercised when assigning this classification as the entertainers may be exempt from coverage as specified in RCW 51.12.020(9).

WSR 05-23-162

**PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed November 22, 2005, 4:33 p.m., effective January 1, 2006]

Effective Date of Rule: January 1, 2006.

Purpose: Chapter 296-17 WAC, General reporting rules, classifications, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance (2006 workers' compensation premium rates), this rule-making order will adopt risk classification premium base rates and experience rating plan tables to reflect updated loss experience effective January 1, 2006.

Citation of Existing Rules Affected by this Order: Amending WAC 296-17-855, 296-17-875, 296-17-880, 296-17-885, 296-17-890, 296-17-895, 296-17-89502, 296-17-90492, 296-17-90493, 296-17-90494, 296-17-90495, 296-17-90496, 296-17-90497, and 296-17-920.

Statutory Authority for Adoption: RCW 51.04.020, 51.16.035, and 51.32.073.

Adopted under notice filed as WSR 05-18-090 on September 7, 2005.

Changes Other than Editing from Proposed to Adopted Version: The department originally proposed a general rate increase of 3.8%. However, as a result of public comments and review of the most recent financial statements the department will adopt a -0.4% general rate reduction.

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 14, 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: November 22, 2005.

Gary Weeks
Director

AMENDATORY SECTION (Amending WSR 04-24-025, filed 11/23/04, effective 1/1/05)

WAC 296-17-855 Experience modification. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the losses which would be expected for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to mitigate the effects of losses which may be considered catastrophic or of doubtful statistical significance, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification shall be calculated from the formula:

$$\text{MODIFICATION} = \frac{A_p + W A_e + (1-W) E_e + B}{E + B}$$

The components A_p , $W A_e$, and $(1-W) E_e$ are values which shall be charged against an employer's experience record. The component, E , shall be the expected value of these charges for an average employer reporting the same exposures in each classification. The meaning and function of each symbol in the formula is specified below.

" A_p " signifies "primary actual losses." For each claim the primary actual loss is defined as that portion of the claim which is considered completely rateable for all employers and which is to enter the experience modification calculation at its full value. For each claim in excess of \$((17,124))

18,972 the primary actual loss shall be determined from the formula:

$$\text{PRIMARY LOSS} = \frac{((42,810)) 47,430}{\text{Total loss} + ((25,686)) 28,458} \times \text{total loss}$$

Primary actual losses for selected claim values are shown in Table I. For each claim less than \$((17,124)) 18,972 the full value of the claim shall be considered a primary loss.

" A_e " signifies "excess actual losses." For each claim the excess actual loss is defined as that portion of the claim which is not considered completely rateable for all employers. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss.

" W " signifies "W value." For each employer, the W value determines the portion of the actual excess losses which shall be included in the calculation of his experience modification, due consideration being given to the volume of his experience. This amount is represented by the symbol " $W A_e$ " in the experience modification formula. W values are set forth in Table II.

" E " signifies "expected losses." An employer's expected losses shall be determined by multiplying his reported exposure in each classification during the experience period by the classification expected loss rate. Expected loss rates are set forth in Table III.

" E_e " signifies "expected excess losses." Expected losses in each classification shall be multiplied by the classification " D -Ratio" to obtain "expected primary losses." Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses. Each employer shall have a statistical charge included in the calculation of his experience modification, said charge to be actuarially equivalent to the amount forgiven an average employer because of the exclusion of a portion of his excess actual losses. This charge is represented by " $(1-W) E_e$ " in the experience modification formula. D-Ratios are set forth in Table III.

" B " signifies "B value" or "ballast." In order to limit the effect of a single severe accident on the modification of a small employer, a stabilizing element (B value) shall be added to both actual and expected losses. B values are set forth in Table II.

AMENDATORY SECTION (Amending WSR 04-24-025, filed 11/23/04, effective 1/1/05)

WAC 296-17-875 Table I.

**Primary Losses for Selected Claim Values
Effective January 1, (~~2005~~) 2006**

CLAIM VALUE	PRIMARY LOSS
((17,124)	17,124
18,636	18,000
22,522	20,000
27,155	22,000
32,773	24,000
39,728	26,000
48,562	28,000

**Primary Losses for Selected Claim Values
Effective January 1, ((2005)) 2006**

CLAIM VALUE	PRIMARY LOSS	Expected Losses	B	W	
		110,206 -	121,202	71,889	0.11
		121,203 -	132,381	71,081	0.12
60,155	30,000	132,382 -	143,747	70,273	0.13
76,036	32,000	143,748 -	155,305	69,466	0.14
100,000	34,061	155,306 -	167,060	68,658	0.15
150,000	36,551	167,061 -	179,017	67,850	0.16
209,345*	38,131	179,018 -	191,183	67,042	0.17
300,000	39,434	191,184 -	203,564	66,235	0.18
428,100**	40,387))	203,565 -	216,165	65,427	0.19
<u>18,972</u>	<u>18,972</u>	216,166 -	228,992	64,619	0.20
<u>20,750</u>	<u>20,000</u>	228,993 -	242,053	63,811	0.21
<u>24,620</u>	<u>22,000</u>	242,054 -	255,354	63,004	0.22
<u>29,150</u>	<u>24,000</u>	255,355 -	268,903	62,196	0.23
<u>34,527</u>	<u>26,000</u>	268,904 -	282,707	61,388	0.24
<u>41,010</u>	<u>28,000</u>	282,708 -	296,773	60,581	0.25
<u>48,981</u>	<u>30,000</u>	296,774 -	311,109	59,773	0.26
<u>59,019</u>	<u>32,000</u>	311,110 -	325,725	58,965	0.27
<u>80,131</u>	<u>35,000</u>	325,726 -	340,628	58,157	0.28
<u>100,000</u>	<u>36,923</u>	340,629 -	355,828	57,350	0.29
<u>125,000</u>	<u>38,634</u>	355,829 -	371,334	56,542	0.30
<u>150,000</u>	<u>39,867</u>	371,335 -	387,156	55,734	0.31
<u>208,747*</u>	<u>41,740</u>	387,157 -	403,305	54,926	0.32
<u>300,000</u>	<u>43,321</u>	403,306 -	419,791	54,119	0.33
<u>474,300**</u>	<u>44,745</u>	419,792 -	436,625	53,311	0.34
		436,626 -	453,820	52,503	0.35
		453,821 -	471,386	51,695	0.36
		471,387 -	489,338	50,888	0.37
		489,339 -	507,689	50,080	0.38
		507,690 -	526,453	49,272	0.39
		526,454 -	545,644	48,464	0.40
		545,645 -	565,278	47,657	0.41
		565,279 -	585,371	46,849	0.42
		585,372 -	605,941	46,041	0.43
		605,942 -	627,004	45,233	0.44
		627,005 -	648,580	44,426	0.45
		648,581 -	670,689	43,618	0.46
		670,690 -	693,351	42,810	0.47
		693,352 -	716,588	42,002	0.48
		716,589 -	740,424	41,195	0.49
		740,425 -	764,881	40,387	0.50
		764,882 -	789,987	39,579	0.51
		789,988 -	815,767	38,772	0.52
		815,768 -	842,251	37,964	0.53
		842,252 -	869,469	37,156	0.54
		869,470 -	897,452	36,348	0.55
		897,453 -	926,235	35,541	0.56
		926,236 -	955,852	34,733	0.57

* Average death value
** Maximum claim value

AMENDATORY SECTION (Amending WSR 04-24-025, filed 11/23/04, effective 1/1/05)

WAC 296-17-880 Table II.

**"B" and "W" Values
Effective January 1, ((2005)) 2006**

Maximum Claim Value = \$((428,100)) 474,300
Average Death Value = \$((209,345)) 208,747

Expected Losses	B	W	
((9,275 & Under	80,774	0.00	
9,276 -	18,689	79,966	0.01
18,690 -	28,243	79,159	0.02
28,244 -	37,943	78,351	0.03
37,944 -	47,790	77,543	0.04
47,791 -	57,789	76,735	0.05
57,790 -	67,945	75,928	0.06
67,946 -	78,260	75,120	0.07
78,261 -	88,739	74,312	0.08
88,740 -	99,386	73,504	0.09
99,387 -	110,205	72,697	0.10

Expected Losses		B	W	Expected Losses		B	W		
955,853	-	986,343	33,925	0.58	<u>42,039</u>	=	<u>52,947</u>	<u>85,910</u>	<u>0.04</u>
986,344	-	1,017,746	33,117	0.59	<u>52,948</u>	=	<u>64,026</u>	<u>85,016</u>	<u>0.05</u>
1,017,747	-	1,050,106	32,310	0.60	<u>64,027</u>	=	<u>75,277</u>	<u>84,121</u>	<u>0.06</u>
1,050,107	-	1,083,468	31,502	0.61	<u>75,278</u>	=	<u>86,705</u>	<u>83,226</u>	<u>0.07</u>
1,083,469	-	1,117,880	30,694	0.62	<u>86,706</u>	=	<u>98,315</u>	<u>82,331</u>	<u>0.08</u>
1,117,881	-	1,153,393	29,886	0.63	<u>98,316</u>	=	<u>110,111</u>	<u>81,436</u>	<u>0.09</u>
1,153,394	-	1,190,063	29,079	0.64	<u>110,112</u>	=	<u>122,099</u>	<u>80,541</u>	<u>0.10</u>
1,190,064	-	1,227,949	28,271	0.65	<u>122,100</u>	=	<u>134,283</u>	<u>79,646</u>	<u>0.11</u>
1,227,950	-	1,267,114	27,463	0.66	<u>134,284</u>	=	<u>146,668</u>	<u>78,751</u>	<u>0.12</u>
1,267,115	-	1,307,624	26,655	0.67	<u>146,669</u>	=	<u>159,260</u>	<u>77,856</u>	<u>0.13</u>
1,307,625	-	1,349,553	25,848	0.68	<u>159,261</u>	=	<u>172,064</u>	<u>76,961</u>	<u>0.14</u>
1,349,554	-	1,392,976	25,040	0.69	<u>172,065</u>	=	<u>185,088</u>	<u>76,067</u>	<u>0.15</u>
1,392,977	-	1,437,978	24,232	0.70	<u>185,089</u>	=	<u>198,336</u>	<u>75,172</u>	<u>0.16</u>
1,437,979	-	1,484,648	23,424	0.71	<u>198,337</u>	=	<u>211,815</u>	<u>74,277</u>	<u>0.17</u>
1,484,649	-	1,533,082	22,617	0.72	<u>211,816</u>	=	<u>225,532</u>	<u>73,382</u>	<u>0.18</u>
1,533,083	-	1,583,383	21,809	0.73	<u>225,533</u>	=	<u>239,493</u>	<u>72,487</u>	<u>0.19</u>
1,583,384	-	1,635,664	21,001	0.74	<u>239,494</u>	=	<u>253,705</u>	<u>71,592</u>	<u>0.20</u>
1,635,665	-	1,690,046	20,194	0.75	<u>253,706</u>	=	<u>268,175</u>	<u>70,697</u>	<u>0.21</u>
1,690,047	-	1,746,661	19,386	0.76	<u>268,176</u>	=	<u>282,912</u>	<u>69,802</u>	<u>0.22</u>
1,746,662	-	1,805,650	18,578	0.77	<u>282,913</u>	=	<u>297,923</u>	<u>68,907</u>	<u>0.23</u>
1,805,651	-	1,867,168	17,770	0.78	<u>297,924</u>	=	<u>313,215</u>	<u>68,012</u>	<u>0.24</u>
1,867,169	-	1,931,385	16,963	0.79	<u>313,216</u>	=	<u>328,799</u>	<u>67,118</u>	<u>0.25</u>
1,931,386	-	1,998,484	16,155	0.80	<u>328,800</u>	=	<u>344,683</u>	<u>66,223</u>	<u>0.26</u>
1,998,485	-	2,068,667	15,347	0.81	<u>344,684</u>	=	<u>360,876</u>	<u>65,328</u>	<u>0.27</u>
2,068,668	-	2,142,153	14,539	0.82	<u>360,877</u>	=	<u>377,388</u>	<u>64,433</u>	<u>0.28</u>
2,142,154	-	2,219,184	13,732	0.83	<u>377,389</u>	=	<u>394,228</u>	<u>63,538</u>	<u>0.29</u>
2,219,185	-	2,300,027	12,924	0.84	<u>394,229</u>	=	<u>411,408</u>	<u>62,643</u>	<u>0.30</u>
2,300,028	-	2,384,974	12,116	0.85	<u>411,409</u>	=	<u>428,938</u>	<u>61,748</u>	<u>0.31</u>
2,384,975	-	2,474,349	11,308	0.86	<u>428,939</u>	=	<u>446,829</u>	<u>60,853</u>	<u>0.32</u>
2,474,350	-	2,568,512	10,501	0.87	<u>446,830</u>	=	<u>465,095</u>	<u>59,958</u>	<u>0.33</u>
2,568,513	-	2,667,861	9,693	0.88	<u>465,096</u>	=	<u>483,745</u>	<u>59,063</u>	<u>0.34</u>
2,667,862	-	2,772,841	8,885	0.89	<u>483,746</u>	=	<u>502,795</u>	<u>58,169</u>	<u>0.35</u>
2,772,842	-	2,883,949	8,077	0.90	<u>502,796</u>	=	<u>522,257</u>	<u>57,274</u>	<u>0.36</u>
2,883,950	-	3,001,741	7,270	0.91	<u>522,258</u>	=	<u>542,147</u>	<u>56,379</u>	<u>0.37</u>
3,001,742	-	3,126,846	6,462	0.92	<u>542,148</u>	=	<u>562,478</u>	<u>55,484</u>	<u>0.38</u>
3,126,847	-	3,259,969	5,654	0.93	<u>562,479</u>	=	<u>583,267</u>	<u>54,589</u>	<u>0.39</u>
3,259,970	-	3,401,913	4,846	0.94	<u>583,268</u>	=	<u>604,529</u>	<u>53,694</u>	<u>0.40</u>
3,401,914	-	3,553,591	4,039	0.95	<u>604,530</u>	=	<u>626,282</u>	<u>52,799</u>	<u>0.41</u>
3,553,592	-	3,716,046	3,231	0.96	<u>626,283</u>	=	<u>648,544</u>	<u>51,904</u>	<u>0.42</u>
3,716,047	-	3,890,474	2,423	0.97	<u>648,545</u>	=	<u>671,333</u>	<u>51,009</u>	<u>0.43</u>
3,890,475	-	4,078,257	1,615	0.98	<u>671,334</u>	=	<u>694,669</u>	<u>50,114</u>	<u>0.44</u>
4,078,258	-	4,280,999	808	0.99	<u>694,670</u>	=	<u>718,574</u>	<u>49,220</u>	<u>0.45</u>
4,281,000 & Over			0	1.00))	<u>718,575</u>	=	<u>743,069</u>	<u>48,325</u>	<u>0.46</u>
10,276 & Under			89,490	0.00	<u>743,070</u>	=	<u>768,176</u>	<u>47,430</u>	<u>0.47</u>
<u>10,277</u>	=	<u>20,706</u>	<u>88,595</u>	<u>0.01</u>	<u>768,177</u>	=	<u>793,921</u>	<u>46,535</u>	<u>0.48</u>
<u>20,707</u>	=	<u>31,292</u>	<u>87,700</u>	<u>0.02</u>	<u>793,922</u>	=	<u>820,329</u>	<u>45,640</u>	<u>0.49</u>
<u>31,293</u>	=	<u>42,038</u>	<u>86,805</u>	<u>0.03</u>	<u>820,330</u>	=	<u>847,426</u>	<u>44,745</u>	<u>0.50</u>

Expected Losses		B	W
<u>847,427</u>	=	<u>875,241</u>	<u>43,850</u>
<u>875,242</u>	=	<u>903,804</u>	<u>42,955</u>
<u>903,805</u>	=	<u>933,146</u>	<u>42,060</u>
<u>933,147</u>	=	<u>963,300</u>	<u>41,165</u>
<u>963,301</u>	=	<u>994,303</u>	<u>40,271</u>
<u>994,304</u>	=	<u>1,026,192</u>	<u>39,376</u>
<u>1,026,193</u>	=	<u>1,059,006</u>	<u>38,481</u>
<u>1,059,007</u>	=	<u>1,092,787</u>	<u>37,586</u>
<u>1,092,788</u>	=	<u>1,127,580</u>	<u>36,691</u>
<u>1,127,581</u>	=	<u>1,163,432</u>	<u>35,796</u>
<u>1,163,433</u>	=	<u>1,200,394</u>	<u>34,901</u>
<u>1,200,395</u>	=	<u>1,238,520</u>	<u>34,006</u>
<u>1,238,521</u>	=	<u>1,277,866</u>	<u>33,111</u>
<u>1,277,867</u>	=	<u>1,318,493</u>	<u>32,216</u>
<u>1,318,494</u>	=	<u>1,360,467</u>	<u>31,322</u>
<u>1,360,468</u>	=	<u>1,403,859</u>	<u>30,427</u>
<u>1,403,860</u>	=	<u>1,448,741</u>	<u>29,532</u>
<u>1,448,742</u>	=	<u>1,495,194</u>	<u>28,637</u>
<u>1,495,195</u>	=	<u>1,543,304</u>	<u>27,742</u>
<u>1,543,305</u>	=	<u>1,593,163</u>	<u>26,847</u>
<u>1,593,164</u>	=	<u>1,644,869</u>	<u>25,952</u>
<u>1,644,870</u>	=	<u>1,698,530</u>	<u>25,057</u>
<u>1,698,531</u>	=	<u>1,754,260</u>	<u>24,162</u>
<u>1,754,261</u>	=	<u>1,812,182</u>	<u>23,267</u>
<u>1,812,183</u>	=	<u>1,872,433</u>	<u>22,373</u>
<u>1,872,434</u>	=	<u>1,935,157</u>	<u>21,478</u>
<u>1,935,158</u>	=	<u>2,000,513</u>	<u>20,583</u>
<u>2,000,514</u>	=	<u>2,068,670</u>	<u>19,688</u>
<u>2,068,671</u>	=	<u>2,139,818</u>	<u>18,793</u>
<u>2,139,819</u>	=	<u>2,214,158</u>	<u>17,898</u>
<u>2,214,159</u>	=	<u>2,291,915</u>	<u>17,003</u>
<u>2,291,916</u>	=	<u>2,373,332</u>	<u>16,108</u>
<u>2,373,333</u>	=	<u>2,458,676</u>	<u>15,213</u>
<u>2,458,677</u>	=	<u>2,548,242</u>	<u>14,318</u>
<u>2,548,243</u>	=	<u>2,642,357</u>	<u>13,424</u>
<u>2,642,358</u>	=	<u>2,741,377</u>	<u>12,529</u>
<u>2,741,378</u>	=	<u>2,845,702</u>	<u>11,634</u>
<u>2,845,703</u>	=	<u>2,955,773</u>	<u>10,739</u>
<u>2,955,774</u>	=	<u>3,072,082</u>	<u>9,844</u>
<u>3,072,083</u>	=	<u>3,195,181</u>	<u>8,949</u>
<u>3,195,182</u>	=	<u>3,325,685</u>	<u>8,054</u>
<u>3,325,686</u>	=	<u>3,464,291</u>	<u>7,159</u>
<u>3,464,292</u>	=	<u>3,611,781</u>	<u>6,264</u>
<u>3,611,782</u>	=	<u>3,769,044</u>	<u>5,369</u>
<u>3,769,045</u>	=	<u>3,937,090</u>	<u>4,474</u>
<u>3,937,091</u>	=	<u>4,117,076</u>	<u>3,580</u>
<u>4,117,077</u>	=	<u>4,310,328</u>	<u>2,685</u>

Expected Losses		B	W
<u>4,310,329</u>	=	<u>4,518,378</u>	<u>1,790</u>
<u>4,518,379</u>	=	<u>4,742,999</u>	<u>895</u>
<u>4,743,000 & Over</u>		<u>0</u>	<u>1.00</u>

AMENDATORY SECTION (Amending WSR 04-24-025, filed 11/23/04, effective 1/1/05)

WAC 296-17-885 Table III.

**Expected Loss Rates and D-Ratios
for Indicated Fiscal Year
Expected Loss Rates in Dollars Per Worker Hour
Effective January 1, (~~2005~~) 2006**

(Class	2001	2002	2003	D-Ratio
0101	1.3244	1.2465	1.0733	0.454
0103	1.5617	1.4754	1.2827	0.479
0104	0.9424	0.8882	0.7665	0.455
0105	1.3329	1.2671	1.1151	0.522
0107	1.1948	1.1256	0.9710	0.451
0108	0.9424	0.8882	0.7665	0.455
0112	0.7516	0.7118	0.6194	0.478
0201	2.2793	2.1355	1.8234	0.422
0202	3.1165	2.9224	2.4913	0.392
0210	1.1711	1.0977	0.9362	0.413
0212	1.2103	1.1392	0.9793	0.440
0214	1.2368	1.1639	1.0019	0.456
0217	1.1222	1.0595	0.9185	0.477
0219	0.9327	0.8840	0.7700	0.466
0301	0.5505	0.5251	0.4671	0.542
0302	1.7920	1.6798	1.4339	0.433
0303	1.7655	1.6550	1.4122	0.427
0306	1.0070	0.9476	0.8177	0.466
0307	0.9108	0.8609	0.7502	0.489
0308	0.5076	0.4871	0.4379	0.583
0403	1.6320	1.5618	1.3958	0.576
0502	1.4301	1.3444	1.1549	0.453
0504	1.2322	1.1636	1.0073	0.454
0507	2.7638	2.6089	2.2599	0.455
0508	1.9388	1.8100	1.5326	0.394
0509	1.4222	1.3344	1.1471	0.452
0510	1.5059	1.4234	1.2369	0.475
0511	1.5826	1.4948	1.2983	0.484
0512	1.3794	1.2996	1.1232	0.469
0513	0.8549	0.8065	0.6985	0.469
0514	1.7390	1.6455	1.4336	0.489
0516	1.5059	1.4234	1.2369	0.475
0517	1.6143	1.5241	1.3201	0.451
0518	1.6428	1.5432	1.3256	0.441

((Class	2001	2002	2003	D-Ratio	((Class	2001	2002	2003	D-Ratio
0519	1.9724	1.8548	1.5929	0.428	1501	0.5252	0.5003	0.4425	0.540
0521	0.5565	0.5264	0.4581	0.464	1507	0.4836	0.4615	0.4096	0.555
0524	0.0218	0.0205	0.0177	0.465	1701	0.8925	0.8442	0.7342	0.475
0526	0.0112	0.0105	0.0090	0.433	1702	1.9976	1.8644	1.5767	0.382
0527	0.0009	0.0009	0.0007	0.433	1703	0.8700	0.8132	0.6893	0.417
0528	0.0028	0.0027	0.0023	0.482	1704	0.8925	0.8442	0.7342	0.475
0529	0.0016	0.0015	0.0013	0.465	1801	0.5323	0.5019	0.4357	0.443
0530	0.0294	0.0273	0.0230	0.371	1802	0.6440	0.6133	0.5400	0.531
0531	0.0159	0.0148	0.0125	0.382	2002	0.6912	0.6609	0.5911	0.555
0532	0.0014	0.0013	0.0011	0.382	2004	0.8494	0.8121	0.7255	0.568
0533	0.0037	0.0034	0.0029	0.427	2007	0.4244	0.4050	0.3598	0.544
0534	0.0026	0.0024	0.0020	0.371	2008	0.3108	0.2948	0.2593	0.495
0540	0.0227	0.0214	0.0185	0.465	2009	0.3680	0.3535	0.3197	0.588
0541	0.0120	0.0112	0.0097	0.433	2101	0.6568	0.6270	0.5561	0.532
0550	0.0299	0.0277	0.0233	0.371	2102	0.5450	0.5225	0.4699	0.582
0551	0.0166	0.0155	0.0130	0.382	2104	0.3202	0.3080	0.2796	0.593
0601	0.6091	0.5765	0.5043	0.506	2105	0.5595	0.5374	0.4850	0.611
0602	0.6772	0.6437	0.5654	0.543	2106	0.4139	0.3967	0.3549	0.566
0603	1.0037	0.9407	0.8047	0.435	2201	0.2411	0.2305	0.2055	0.550
0604	0.9190	0.8758	0.7764	0.525	2202	0.6759	0.6455	0.5746	0.560
0606	0.4860	0.4655	0.4177	0.581	2203	0.4738	0.4559	0.4134	0.608
0607	0.4410	0.4210	0.3751	0.560	2204	0.2411	0.2305	0.2055	0.550
0608	0.3670	0.3481	0.3053	0.499	2401	0.4497	0.4295	0.3827	0.556
0701	1.9682	1.8233	1.5233	0.362	2903	0.6544	0.6274	0.5642	0.577
0803	0.4572	0.4377	0.3924	0.585	2904	0.7132	0.6776	0.5993	0.505
0901	1.6428	1.5432	1.3256	0.441	2905	0.5569	0.5347	0.4823	0.580
1002	0.9628	0.9155	0.8047	0.501	2906	0.3327	0.3180	0.2842	0.569
1003	0.7865	0.7465	0.6552	0.497	2907	0.4990	0.4788	0.4314	0.584
1004	0.4797	0.4562	0.4017	0.535	2908	0.9894	0.9394	0.8237	0.506
1005	7.6884	7.2691	6.2772	0.463	2909	0.3777	0.3621	0.3256	0.578
1007	0.3663	0.3467	0.3031	0.495	3101	0.9605	0.9055	0.7824	0.446
1101	0.6571	0.6273	0.5577	0.551	3102	0.2766	0.2651	0.2390	0.591
1102	1.2463	1.1799	1.0273	0.496	3103	0.5437	0.5178	0.4570	0.515
1103	1.1291	1.0716	0.9352	0.464	3104	0.5634	0.5335	0.4666	0.493
1104	0.5096	0.4873	0.4353	0.541	3105	0.7459	0.7135	0.6390	0.569
1105	0.9195	0.8703	0.7590	0.470	3303	0.4148	0.3975	0.3566	0.584
1106	0.3306	0.3165	0.2843	0.551	3304	0.4903	0.4712	0.4262	0.589
1108	0.5930	0.5671	0.5076	0.573	3309	0.4078	0.3892	0.3472	0.550
1109	1.3124	1.2522	1.1092	0.528	3402	0.5035	0.4799	0.4264	0.545
1301	0.6307	0.6051	0.5405	0.623	3403	0.1965	0.1865	0.1650	0.517
1303	0.2106	0.2022	0.1823	0.611	3404	0.4961	0.4746	0.4249	0.566
1304	0.0254	0.0243	0.0219	0.585	3405	0.2948	0.2811	0.2496	0.540
1305	0.3736	0.3575	0.3201	0.574	3406	0.2019	0.1941	0.1768	0.612
1401	0.4738	0.4493	0.3936	0.458	3407	0.6506	0.6182	0.5437	0.505
1404	0.6643	0.6349	0.5652	0.545	3408	0.1607	0.1549	0.1398	0.627
1405	0.4896	0.4704	0.4235	0.607	3409	0.1636	0.1585	0.1464	0.684
1407	0.6643	0.6349	0.5652	0.545	3410	0.2579	0.2480	0.2243	0.591

((Class	2001	2002	2003	D-Ratio	((Class	2001	2002	2003	D-Ratio
3411	0.4616	0.4390	0.3878	0.529	4804	0.5253	0.5048	0.4557	0.604
3412	0.5240	0.4952	0.4311	0.480	4805	0.2763	0.2655	0.2404	0.588
3414	0.5319	0.5068	0.4501	0.553	4806	0.0541	0.0517	0.0464	0.551
3415	0.7453	0.7040	0.6123	0.453	4808	0.4591	0.4379	0.3888	0.529
3501	0.9961	0.9496	0.8392	0.524	4809	0.3695	0.3547	0.3202	0.586
3503	0.2970	0.2865	0.2614	0.602	4810	0.1395	0.1345	0.1227	0.612
3506	1.0676	1.0023	0.8615	0.455	4811	0.2492	0.2392	0.2167	0.587
3509	0.3907	0.3769	0.3448	0.641	4812	0.3780	0.3630	0.3286	0.605
3510	0.3674	0.3519	0.3165	0.589	4813	0.1587	0.1521	0.1365	0.554
3511	0.7008	0.6682	0.5927	0.534	4900	0.3544	0.3359	0.2940	0.501
3512	0.3218	0.3090	0.2803	0.602	4901	0.0765	0.0726	0.0640	0.511
3513	0.4613	0.4373	0.3829	0.442	4902	0.0943	0.0906	0.0820	0.619
3602	0.1193	0.1150	0.1048	0.637	4903	0.1371	0.1321	0.1200	0.655
3603	0.4379	0.4182	0.3732	0.550	4904	0.0301	0.0288	0.0261	0.597
3604	0.7867	0.7473	0.6603	0.493	4905	0.3305	0.3185	0.2898	0.604
3605	0.5000	0.4771	0.4235	0.555	4906	0.0953	0.0914	0.0823	0.597
3701	0.2766	0.2651	0.2390	0.591	4907	0.0491	0.0470	0.0421	0.560
3702	0.4236	0.4064	0.3670	0.603	4908	0.1253	0.1216	0.1147	0.666
3708	0.6083	0.5801	0.5145	0.548	4909	0.0561	0.0543	0.0507	0.619
3802	0.1694	0.1630	0.1478	0.616	4910	0.4215	0.4023	0.3579	0.540
3808	0.4254	0.4035	0.3542	0.509	5001	4.5741	4.2967	3.6756	0.435
3901	0.1569	0.1515	0.1391	0.631	5002	0.5694	0.5449	0.4869	0.582
3902	0.4863	0.4651	0.4158	0.554	5003	1.8101	1.6996	1.4509	0.423
3903	1.0678	1.0228	0.9185	0.549	5004	0.9257	0.8804	0.7763	0.502
3905	0.1569	0.1515	0.1391	0.631	5005	0.5682	0.5367	0.4651	0.467
3906	0.4826	0.4617	0.4121	0.546	5006	1.6110	1.5078	1.2807	0.387
3909	0.2596	0.2509	0.2302	0.655	5101	0.8809	0.8437	0.7566	0.589
4002	1.3104	1.2478	1.0991	0.553	5103	0.7113	0.6834	0.6194	0.599
4101	0.2740	0.2613	0.2325	0.549	5106	0.7113	0.6834	0.6194	0.599
4103	0.4152	0.4016	0.3699	0.652	5108	0.8898	0.8553	0.7755	0.621
4107	0.1584	0.1517	0.1360	0.573	5109	0.6123	0.5820	0.5144	0.528
4108	0.1372	0.1309	0.1170	0.544	5201	0.4173	0.3985	0.3563	0.573
4109	0.2069	0.1970	0.1749	0.530	5204	0.9263	0.8769	0.7679	0.478
4201	0.6487	0.6171	0.5429	0.551	5206	0.3544	0.3359	0.2940	0.501
4301	0.6511	0.6262	0.5672	0.613	5207	0.1678	0.1622	0.1493	0.644
4302	0.6117	0.5856	0.5243	0.574	5208	0.8616	0.8189	0.7215	0.503
4304	0.9653	0.9230	0.8221	0.543	5209	0.7607	0.7222	0.6354	0.506
4305	1.1409	1.0825	0.9501	0.531	5301	0.0306	0.0294	0.0269	0.627
4401	0.3791	0.3600	0.3172	0.485	5302	0.0219	0.0210	0.0188	0.574
4402	0.7931	0.7615	0.6895	0.604	5305	0.0529	0.0511	0.0471	0.662
4404	0.5097	0.4901	0.4434	0.603	5306	0.0592	0.0569	0.0518	0.622
4501	0.1856	0.1792	0.1640	0.645	5307	0.4685	0.4484	0.4009	0.587
4502	0.0402	0.0385	0.0347	0.563	6103	0.0795	0.0769	0.0712	0.658
4504	0.1110	0.1074	0.0994	0.667	6104	0.3642	0.3499	0.3160	0.588
4601	0.7014	0.6702	0.5958	0.541	6105	0.3186	0.3031	0.2682	0.528
4802	0.2546	0.2430	0.2164	0.530	6107	0.1332	0.1280	0.1177	0.615
4803	0.2522	0.2425	0.2197	0.578	6108	0.4101	0.3956	0.3620	0.624

((Class	2001	2002	2003	D-Ratio	((Class	2001	2002	2003	D-Ratio
6109	0.0892	0.0853	0.0765	0.574	6705	0.8493	0.8210	0.7575	0.632
6110	0.5393	0.5170	0.4650	0.585	6706	0.3183	0.3047	0.2742	0.553
6201	0.3266	0.3083	0.2693	0.478	6707	3.1650	3.0806	2.8587	0.717
6202	0.6317	0.6032	0.5367	0.527	6708	8.1557	7.7761	6.8871	0.444
6203	0.0958	0.0930	0.0871	0.691	6709	0.2755	0.2665	0.2447	0.638
6204	0.1303	0.1249	0.1135	0.597	6801	0.5639	0.5408	0.4869	0.619
6205	0.2390	0.2294	0.2068	0.581	6802	0.3970	0.3820	0.3480	0.619
6206	0.2152	0.2061	0.1854	0.584	6803	0.8492	0.7933	0.6726	0.367
6207	1.0315	0.9876	0.8867	0.519	6804	0.2777	0.2650	0.2364	0.562
6208	0.2312	0.2227	0.2031	0.595	6809	4.7851	4.5902	4.1352	0.572
6209	0.2941	0.2826	0.2558	0.590	6901	0.0387	0.0383	0.0380	0.766
6301	0.1215	0.1145	0.0991	0.457	6902	0.9982	0.9357	0.7968	0.425
6302	0.1607	0.1535	0.1372	0.537	6903	7.4689	6.9326	5.8068	0.310
6303	0.0696	0.0664	0.0593	0.542	6904	0.3787	0.3645	0.3285	0.650
6304	0.3738	0.3604	0.3276	0.602	6905	0.3624	0.3480	0.3145	0.628
6305	0.0926	0.0893	0.0817	0.611	6906	0.1515	0.1497	0.1483	0.740
6306	0.3214	0.3083	0.2776	0.592	6907	1.1330	1.0869	0.9762	0.593
6308	0.0594	0.0569	0.0513	0.592	6908	0.4781	0.4591	0.4136	0.602
6309	0.1743	0.1677	0.1522	0.603	6909	0.1101	0.1058	0.0961	0.608
6402	0.2858	0.2762	0.2532	0.653	7100	0.0315	0.0300	0.0265	0.493
6403	0.1507	0.1449	0.1318	0.600	7101	0.0240	0.0227	0.0199	0.454
6404	0.2032	0.1956	0.1774	0.606	7102	4.0084	3.8786	3.5771	0.601
6405	0.5738	0.5465	0.4848	0.541	7103	0.5332	0.5069	0.4663	0.532
6406	0.1049	0.1011	0.0925	0.626	7104	0.0290	0.0280	0.0254	0.640
6407	0.2689	0.2582	0.2332	0.590	7105	0.0293	0.0284	0.0261	0.662
6408	0.3711	0.3552	0.3201	0.597	7106	0.1849	0.1783	0.1624	0.623
6409	0.8520	0.8068	0.7058	0.500	7107	0.2196	0.2109	0.1910	0.571
6410	0.2739	0.2612	0.2331	0.547	7108	0.1938	0.1869	0.1709	0.600
6501	0.1608	0.1551	0.1410	0.634	7109	0.1289	0.1242	0.1135	0.631
6502	0.0382	0.0366	0.0332	0.600	7110	0.3448	0.3272	0.2866	0.502
6503	0.0722	0.0685	0.0602	0.536	7111	0.3843	0.3656	0.3218	0.521
6504	0.3890	0.3755	0.3444	0.632	7112	0.6010	0.5747	0.5151	0.563
6505	0.1038	0.1002	0.0919	0.619	7113	0.3581	0.3441	0.3124	0.585
6506	0.0999	0.0963	0.0883	0.637	7114	0.5757	0.5570	0.5130	0.653
6508	0.2995	0.2885	0.2627	0.605	7115	0.5553	0.5349	0.4875	0.618
6509	0.3501	0.3369	0.3058	0.595	7116	0.6652	0.6398	0.5766	0.593
6510	0.4783	0.4505	0.3878	0.431	7117	1.3550	1.2998	1.1723	0.596
6511	0.2864	0.2756	0.2502	0.596	7118	1.1916	1.1448	1.0361	0.604
6601	0.1812	0.1740	0.1571	0.583	7119	1.2266	1.1747	1.0513	0.574
6602	0.4151	0.3983	0.3584	0.580	7120	5.8769	5.6033	4.9752	0.535
6603	0.3171	0.3032	0.2710	0.570	7121	5.5078	5.2516	4.6642	0.535
6604	0.0794	0.0764	0.0693	0.615	7122	0.5757	0.5570	0.5130	0.6530
6605	0.2918	0.2814	0.2584	0.622	7201	1.1839	1.1280	0.9959	0.550
6607	0.1673	0.1603	0.1435	0.564	7202	0.0379	0.0361	0.0317	0.530
6608	0.5426	0.5085	0.4355	0.438	7203	0.1236	0.1192	0.1093	0.606
6620	4.4397	4.2975	3.9395	0.694	7204	0.0000	0.0000	0.0000	1.000
6704	0.1617	0.1555	0.1408	0.623	7301	0.4629	0.4420	0.3926	0.518

((Class	2001	2002	2003	D-Ratio	Class	2002	2003	2004	D-Ratio
7302	0.9022	0.8615	0.7647	0.521	1005	8.9312	7.5026	6.9194	0.473
7307	0.4903	0.4706	0.4221	0.559	1007	0.4313	0.3555	0.3299	0.509
7308	0.2758	0.2669	0.2463	0.636	1101	0.7970	0.6491	0.6096	0.555
7309	0.2755	0.2665	0.2447	0.638))	1102	1.4917	1.2375	1.1429	0.496
					1103	1.3294	1.1226	1.0479	0.467
					1104	0.6232	0.5098	0.4834	0.554
Class	2002	2003	2004	D-Ratio	1105	1.0534	0.8796	0.8186	0.483
0101	1.4847	1.2443	1.1432	0.460	1106	0.4027	0.3288	0.3129	0.555
0103	1.8524	1.5387	1.4188	0.484	1108	0.7364	0.5951	0.5601	0.573
0104	1.0684	0.8932	0.8219	0.468	1109	1.6163	1.3290	1.2500	0.538
0105	1.5795	1.2956	1.2082	0.531	1301	0.7680	0.6079	0.5675	0.633
0107	1.3744	1.1518	1.0583	0.460	1303	0.2567	0.2047	0.1933	0.612
0108	1.0684	0.8932	0.8219	0.468	1304	0.0317	0.0254	0.0241	0.590
0112	0.8720	0.7273	0.6739	0.487	1305	0.4671	0.3757	0.3545	0.591
0201	2.6438	2.2267	2.0258	0.430	1401	0.5568	0.4696	0.4408	0.466
0202	3.4469	2.9526	2.7120	0.406	1404	0.8355	0.6812	0.6427	0.560
0210	1.3464	1.1396	1.0401	0.426	1405	0.6330	0.5048	0.4776	0.619
0212	1.4263	1.1989	1.1004	0.454	1407	0.7485	0.6117	0.5778	0.556
0214	1.4435	1.2020	1.1010	0.473	1501	0.6561	0.5333	0.4994	0.558
0217	1.2482	1.0359	0.9545	0.489	1507	0.5838	0.4750	0.4448	0.558
0219	1.0487	0.8818	0.8211	0.473	1701	1.0285	0.8600	0.7975	0.480
0301	0.6809	0.5554	0.5224	0.549	1702	2.2744	1.9440	1.7625	0.390
0302	2.0714	1.7360	1.5801	0.450	1703	0.9667	0.8129	0.7348	0.432
0303	2.0469	1.7232	1.5683	0.437	1704	1.0285	0.8600	0.7975	0.480
0306	1.1351	0.9407	0.8619	0.482	1801	0.6153	0.5176	0.4806	0.454
0307	1.0403	0.8573	0.7940	0.509	1802	0.7814	0.6404	0.5967	0.541
0308	0.6220	0.5022	0.4764	0.590	2002	0.8347	0.6798	0.6431	0.561
0403	1.9600	1.5840	1.4897	0.578	2004	1.0728	0.8686	0.8178	0.571
0502	1.6752	1.3977	1.2772	0.463	2007	0.5126	0.4187	0.3935	0.548
0504	1.5285	1.2855	1.1886	0.462	2008	0.3693	0.3058	0.2860	0.503
0507	3.2625	2.7330	2.5340	0.474	2009	0.4654	0.3757	0.3580	0.585
0508	2.1299	1.8060	1.6381	0.411	2101	0.7774	0.6402	0.6025	0.534
0509	1.6940	1.4102	1.2887	0.463	2102	0.6673	0.5378	0.5097	0.588
0510	1.7290	1.4328	1.3302	0.502	2104	0.4186	0.3368	0.3225	0.598
0511	1.8432	1.5264	1.4052	0.492	2105	0.6932	0.5516	0.5219	0.618
0512	1.6373	1.3641	1.2501	0.470	2106	0.4980	0.4052	0.3837	0.572
0513	0.9899	0.8228	0.7576	0.482	2201	0.2912	0.2378	0.2247	0.557
0514	2.0915	1.7337	1.6037	0.498	2202	0.8161	0.6615	0.6212	0.567
0516	1.8178	1.5205	1.3996	0.467	2203	0.5741	0.4605	0.4384	0.603
0517	1.8986	1.5988	1.4798	0.457	2204	0.2912	0.2378	0.2247	0.557
0518	1.7410	1.4574	1.3344	0.454	2401	0.5623	0.4564	0.4289	0.564
0519	2.4161	2.0474	1.8755	0.428	2903	0.7832	0.6329	0.5998	0.581
0521	0.6270	0.5240	0.4874	0.483	2904	0.8704	0.7181	0.6749	0.515
0601	0.7389	0.6088	0.5635	0.505	2905	0.6640	0.5367	0.5110	0.584
0602	0.8651	0.7028	0.6513	0.549	2906	0.3954	0.3194	0.3010	0.573
0603	1.1278	0.9442	0.8596	0.446	2907	0.6286	0.5051	0.4800	0.599
0604	1.1036	0.9073	0.8533	0.532	2908	1.1697	0.9675	0.9001	0.510
0606	0.6090	0.4915	0.4638	0.581	2909	0.4621	0.3734	0.3542	0.582
0607	0.5578	0.4512	0.4237	0.569	3101	1.0997	0.9233	0.8527	0.461
0608	0.4431	0.3657	0.3406	0.513	3102	0.3342	0.2679	0.2536	0.593
0701	2.2002	1.8733	1.6726	0.373	3103	0.6460	0.5331	0.5001	0.525
0803	0.5562	0.4459	0.4202	0.593	3104	0.6674	0.5509	0.5119	0.508
0901	1.7410	1.4574	1.3344	0.454	3105	0.8809	0.7130	0.6728	0.570
1002	1.1105	0.9228	0.8636	0.506	3303	0.5092	0.4098	0.3871	0.591
1003	0.9129	0.7577	0.7064	0.500	3304	0.5720	0.4592	0.4389	0.603
1004	0.5763	0.4700	0.4373	0.546	3309	0.5043	0.4102	0.3860	0.553

<u>Class</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>D-Ratio</u>	<u>Class</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>D-Ratio</u>
3402	0.6170	0.5045	0.4733	0.539	4804	0.6370	0.5098	0.4838	0.609
3403	0.2368	0.1937	0.1815	0.527	4805	0.3489	0.2815	0.2685	0.589
3404	0.5855	0.4734	0.4475	0.576	4806	0.0677	0.0550	0.0521	0.560
3405	0.3723	0.3038	0.2854	0.546	4808	0.5594	0.4598	0.4326	0.533
3406	0.2540	0.2020	0.1931	0.622	4809	0.4508	0.3631	0.3459	0.594
3407	0.7797	0.6457	0.6030	0.508	4810	0.1737	0.1391	0.1335	0.612
3408	0.2032	0.1614	0.1530	0.635	4811	0.3189	0.2565	0.2450	0.590
3409	0.2113	0.1642	0.1581	0.685	4812	0.4699	0.3754	0.3569	0.608
3410	0.3271	0.2635	0.2513	0.595	4813	0.1915	0.1563	0.1490	0.562
3411	0.5584	0.4578	0.4274	0.531	4900	0.3838	0.3213	0.2960	0.464
3412	0.6572	0.5462	0.5044	0.484	4901	0.0919	0.0754	0.0704	0.521
3414	0.6396	0.5186	0.4852	0.559	4902	0.1177	0.0935	0.0886	0.623
3415	0.8862	0.7449	0.6916	0.459	4903	0.1757	0.1378	0.1305	0.658
3501	1.1999	0.9879	0.9272	0.534	4904	0.0374	0.0299	0.0284	0.601
3503	0.3753	0.3019	0.2907	0.605	4905	0.4089	0.3286	0.3151	0.607
3506	1.2438	1.0331	0.9430	0.469	4906	0.1157	0.0926	0.0875	0.603
3509	0.4913	0.3878	0.3712	0.643	4907	0.0599	0.0486	0.0460	0.566
3510	0.4383	0.3517	0.3328	0.593	4908	0.1641	0.1285	0.1266	0.659
3511	0.8393	0.6867	0.6461	0.545	4909	0.0725	0.0578	0.0567	0.617
3512	0.4132	0.3299	0.3147	0.606	4910	0.5261	0.4313	0.4056	0.538
3513	0.5362	0.4553	0.4286	0.452	5001	5.3608	4.5191	4.1290	0.443
3602	0.1494	0.1182	0.1127	0.629	5002	0.6924	0.5570	0.5236	0.588
3603	0.5418	0.4414	0.4161	0.554	5003	2.1101	1.7860	1.6330	0.435
3604	0.9344	0.7759	0.7300	0.499	5004	1.0586	0.8780	0.8237	0.508
3605	0.6028	0.4894	0.4584	0.563	5005	0.6429	0.5392	0.4980	0.467
3701	0.3342	0.2679	0.2536	0.593	5006	1.7908	1.5327	1.3997	0.399
3702	0.5396	0.4308	0.4082	0.605	5101	1.0732	0.8602	0.8113	0.596
3708	0.7476	0.6104	0.5712	0.545	5103	0.8988	0.7191	0.6853	0.606
3802	0.2187	0.1742	0.1657	0.623	5106	0.8988	0.7191	0.6853	0.606
3808	0.4930	0.4055	0.3774	0.519	5108	1.0860	0.8621	0.8190	0.622
3901	0.2047	0.1623	0.1562	0.634	5109	0.7087	0.5774	0.5403	0.545
3902	0.6023	0.4908	0.4641	0.558	5201	0.5048	0.4070	0.3823	0.571
3903	1.2941	1.0600	1.0089	0.551	5204	1.0660	0.8881	0.8279	0.484
3905	0.1954	0.1556	0.1496	0.621	5206	0.4615	0.3789	0.3523	0.522
3906	0.5770	0.4700	0.4455	0.565	5207	0.2171	0.1709	0.1650	0.649
3909	0.3220	0.2536	0.2432	0.650	5208	1.0014	0.8278	0.7764	0.516
4002	1.5699	1.2733	1.1816	0.560	5209	0.8788	0.7265	0.6782	0.509
4101	0.3293	0.2681	0.2518	0.551	5301	0.0395	0.0312	0.0299	0.634
4103	0.5175	0.4090	0.3940	0.643	5302	0.0251	0.0203	0.0192	0.568
4107	0.1967	0.1595	0.1507	0.570	5305	0.0661	0.0518	0.0499	0.660
4108	0.1712	0.1390	0.1314	0.556	5306	0.0750	0.0594	0.0567	0.627
4109	0.2468	0.2020	0.1898	0.539	5307	0.5942	0.4783	0.4490	0.585
4201	0.7668	0.6209	0.5753	0.561	6103	0.1021	0.0801	0.0775	0.658
4301	0.7931	0.6332	0.6019	0.614	6104	0.4446	0.3577	0.3411	0.599
4302	0.7589	0.6128	0.5784	0.581	6105	0.3932	0.3212	0.3013	0.543
4304	1.1651	0.9555	0.9029	0.548	6107	0.1728	0.1368	0.1316	0.618
4305	1.3713	1.1131	1.0302	0.550	6108	0.5147	0.4099	0.3936	0.623
4401	0.4581	0.3812	0.3584	0.497	6109	0.1098	0.0884	0.0835	0.583
4402	0.9894	0.7892	0.7507	0.610	6110	0.6838	0.5516	0.5215	0.585
4404	0.6502	0.5199	0.4946	0.612	6201	0.3780	0.3133	0.2906	0.485
4501	0.2325	0.1833	0.1756	0.647	6202	0.7585	0.6247	0.5903	0.533
4502	0.0495	0.0402	0.0383	0.568	6203	0.1273	0.0985	0.0961	0.691
4504	0.1415	0.1105	0.1068	0.663	6204	0.1599	0.1273	0.1215	0.604
4601	0.8454	0.6926	0.6528	0.549	6205	0.2967	0.2391	0.2276	0.590
4802	0.3326	0.2741	0.2590	0.530	6206	0.2690	0.2158	0.2048	0.594
4803	0.3178	0.2569	0.2464	0.590	6207	1.2483	1.0339	0.9902	0.528

<u>Class</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>D-Ratio</u>	<u>Class</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>D-Ratio</u>
6208	0.2935	0.2361	0.2269	0.598	6909	0.1396	0.1113	0.1062	0.616
6209	0.3657	0.2944	0.2811	0.594	7100	0.0378	0.0313	0.0295	0.502
6301	0.1435	0.1195	0.1103	0.473	7101	0.0282	0.0237	0.0221	0.464
6302	0.1954	0.1599	0.1515	0.544	7102	5.0817	4.1052	4.0046	0.601
6303	0.0809	0.0660	0.0624	0.551	7103	0.6621	0.5395	0.5027	0.548
6304	0.4869	0.3927	0.3767	0.601	7104	0.0360	0.0284	0.0271	0.642
6305	0.1210	0.0967	0.0930	0.618	7105	0.0378	0.0296	0.0284	0.666
6306	0.3936	0.3166	0.2998	0.591	7106	0.2326	0.1853	0.1773	0.625
6308	0.0746	0.0599	0.0567	0.597	7107	0.2695	0.2187	0.2095	0.575
6309	0.2147	0.1716	0.1640	0.611	7108	0.2380	0.1920	0.1849	0.595
6402	0.3559	0.2802	0.2686	0.651	7109	0.1575	0.1252	0.1198	0.629
6403	0.1951	0.1565	0.1498	0.603	7110	0.3927	0.3250	0.3023	0.508
6404	0.2577	0.2066	0.1971	0.607	7111	0.4408	0.3639	0.3391	0.518
6405	0.7024	0.5727	0.5365	0.544	7112	0.7449	0.6029	0.5708	0.571
6406	0.1365	0.1082	0.1038	0.634	7113	0.4383	0.3537	0.3386	0.588
6407	0.3279	0.2641	0.2509	0.591	7114	0.6840	0.5416	0.5207	0.641
6408	0.4588	0.3657	0.3455	0.600	7115	0.6922	0.5518	0.5283	0.618
6409	1.0220	0.8442	0.7825	0.503	7116	0.8052	0.6511	0.6187	0.591
6410	0.3358	0.2724	0.2568	0.556	7117	1.7991	1.4335	1.3622	0.615
6501	0.2034	0.1613	0.1538	0.637	7118	1.5548	1.2448	1.1848	0.606
6502	0.0490	0.0393	0.0374	0.601	7119	1.5223	1.2285	1.1602	0.585
6503	0.0863	0.0701	0.0650	0.546	7120	7.0870	5.8015	5.4564	0.542
6504	0.4922	0.3905	0.3756	0.629	7121	6.6433	5.4387	5.1167	0.542
6505	0.1312	0.1044	0.1006	0.624	7122	0.6840	0.5416	0.5207	0.641
6506	0.1286	0.1015	0.0975	0.636	7201	1.4688	1.1870	1.1071	0.576
6508	0.3735	0.2998	0.2874	0.608	7202	0.0438	0.0357	0.0332	0.541
6509	0.4459	0.3590	0.3434	0.598	7203	0.1548	0.1241	0.1199	0.607
6510	0.5409	0.4567	0.4215	0.451	7204	0.0000	0.0000	0.0000	1.000
6511	0.3805	0.3049	0.2918	0.610	7301	0.5754	0.4762	0.4498	0.524
6601	0.2286	0.1845	0.1759	0.592	7302	1.1130	0.9195	0.8693	0.533
6602	0.5102	0.4137	0.3924	0.576	7307	0.5899	0.4824	0.4589	0.564
6603	0.3874	0.3132	0.2948	0.576	7308	0.3585	0.2850	0.2758	0.631
6604	0.0993	0.0792	0.0754	0.620	7309	0.3288	0.2624	0.2526	0.625
6605	0.3764	0.2993	0.2883	0.623					
6607	0.2045	0.1661	0.1571	0.569					
6608	0.6192	0.5175	0.4713	0.447					
6620	5.4294	4.2046	3.9961	0.691					
6704	0.2007	0.1595	0.1513	0.624					
6705	1.0391	0.8299	0.8028	0.617					
6706	0.3863	0.3150	0.3001	0.556					
6707	4.1413	3.1884	3.0724	0.717					
6708	9.7342	8.3312	7.9715	0.452					
6709	0.3543	0.2812	0.2709	0.639					
6801	0.7005	0.5546	0.5219	0.621					
6802	0.5126	0.4073	0.3880	0.623					
6803	0.9573	0.8240	0.7519	0.378					
6804	0.3338	0.2703	0.2541	0.561					
6809	5.7966	4.7009	4.4765	0.575					
6901	0.0543	0.0415	0.0427	0.736					
6902	1.1343	0.9571	0.8696	0.433					
6903	8.2283	7.1994	6.5416	0.323					
6904	0.4649	0.3653	0.3429	0.654					
6905	0.4520	0.3569	0.3366	0.633					
6906	0.2122	0.1638	0.1689	0.715					
6907	1.3956	1.1239	1.0613	0.592					
6908	0.5598	0.4495	0.4252	0.598					

Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed				
(Class	2001	2002	2003	D-Ratio
0524	0.0218	0.0205	0.0177	0.465
0526	0.0112	0.0105	0.0090	0.433
0527	0.0009	0.0009	0.0007	0.433
0528	0.0028	0.0027	0.0023	0.482
0529	0.0016	0.0015	0.0013	0.465
0530	0.0294	0.0273	0.0230	0.371
0531	0.0159	0.0148	0.0125	0.382
0532	0.0014	0.0013	0.0011	0.382
0533	0.0037	0.0034	0.0029	0.427
0534	0.0026	0.0024	0.0020	0.371
0540	0.0227	0.0214	0.0185	0.465
0541	0.0120	0.0112	0.0097	0.433
0550	0.0299	0.0277	0.0233	0.371
0551	0.0166	0.0155	0.0130	0.382))

<u>Class</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>D-Ratio</u>	<u>Expected Loss Range</u>		<u>Maximum Experience Modification</u>
0524	0.0248	0.0206	0.0189	0.473			
0526	0.0133	0.0112	0.0102	0.438			
0527	0.0011	0.0009	0.0009	0.438	20,212	- 22,079	0.68
0528	0.0034	0.0028	0.0026	0.493	22,080	- 24,151	0.67
0529	0.0018	0.0015	0.0014	0.473	24,152	- 26,453	0.66
0530	0.0327	0.0279	0.0252	0.378	26,454	- 29,016	0.65
0531	0.0178	0.0152	0.0137	0.391	29,017	- 31,873	0.64
0532	0.0016	0.0014	0.0012	0.391	31,874	- 35,063	0.63
0533	0.0042	0.0035	0.0033	0.434	35,064	- 38,632	0.62
0534	0.0030	0.0025	0.0023	0.378	38,633	- 42,632	0.61
0540	0.0259	0.0216	0.0198	0.473	42,633 & Higher		0.60))
0541	0.0142	0.0119	0.0109	0.438	1	= 2,905	0.90
0550	0.0332	0.0284	0.0256	0.378	2,906	= 3,534	0.89
0551	0.0186	0.0159	0.0143	0.391	3,535	= 4,192	0.88
					4,193	= 4,880	0.87
					4,881	= 5,603	0.86
					5,604	= 6,361	0.85
					6,362	= 7,159	0.84
					7,160	= 7,998	0.83
					7,999	= 8,882	0.82
					8,883	= 9,816	0.81
					9,817	= 10,802	0.80
					10,803	= 11,847	0.79
					11,848	= 12,954	0.78
					12,955	= 14,131	0.77
					14,132	= 15,383	0.76
					15,384	= 16,719	0.75
					16,720	= 18,146	0.74
					18,147	= 19,675	0.73
					19,676	= 21,316	0.72
					21,317	= 23,084	0.71
					23,085	= 24,992	0.70
					24,993	= 27,059	0.69
					27,060	= 29,305	0.68
					29,306	= 31,754	0.67
					31,755	= 34,435	0.66
					34,436	= 37,383	0.65
					37,384	= 40,640	0.64
					40,641	= 44,257	0.63
					44,258	= 48,296	0.62
					48,297	= 52,838	0.61
					52,839 & Higher		0.60

AMENDATORY SECTION (Amending WSR 04-24-025, filed 11/23/04, effective 1/1/05)

WAC 296-17-890 Table IV.

Maximum experience modifications for firms with no compensable accidents: Effective 1/1/((2005)) 2006

<u>Expected Loss Range</u>	<u>Maximum Experience Modification</u>
((4,052 & Lower	0.90
4,053 - 4,335	0.89
4,336 - 4,641	0.88
4,642 - 4,973	0.87
4,974 - 5,333	0.86
5,334 - 5,724	0.85
5,725 - 6,149	0.84
6,150 - 6,610	0.83
6,611 - 7,113	0.82
7,114 - 7,661	0.81
7,662 - 8,259	0.80
8,260 - 8,911	0.79
8,912 - 9,625	0.78
9,626 - 10,406	0.77
10,407 - 11,263	0.76
11,264 - 12,202	0.75
12,203 - 13,235	0.74
13,236 - 14,370	0.73
14,371 - 15,621	0.72
15,622 - 17,001	0.71
17,002 - 18,525	0.70
18,526 - 20,211	0.69

AMENDATORY SECTION (Amending WSR 04-24-025, filed 11/23/04, effective 1/1/05)

WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry.
 Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

Class	Base Rates Effective January 1, ((2005)) <u>2006</u>	
	Accident Fund	Medical Aid Fund
((0101	1.5712	0.7958
0103	1.7811	1.0388
0104	1.0948	0.5963
0105	1.4713	0.9700
0107	1.3800	0.7634
0108	1.0948	0.5963
0112	0.8408	0.5241
0201	2.7384	1.2955
0202	3.5362	2.0082
0210	1.3908	0.6846
0212	1.4097	0.7562
0214	1.4773	0.7315
0217	1.3098	0.7108
0219	1.0005	0.7000
0301	0.5681	0.4513
0302	2.2054	0.9634
0303	2.1525	0.9713
0306	1.2013	0.5974
0307	1.0350	0.6115
0308	0.5129	0.4392
0403	1.7394	1.2958
0502	1.7292	0.8171
0504	1.3779	0.8471
0507	3.0800	1.9089
0508	2.3737	1.0280
0509	1.7145	0.8096
0510	1.7031	1.0197
0511	1.8399	1.0126
0512	1.6329	0.8381
0513	0.9896	0.5482
0514	1.9781	1.1717
0516	1.7031	1.0197
0517	1.7783	1.1387
0518	1.9397	0.9866
0519	2.2585	1.2686
0521	0.6033	0.4073
0601	0.6934	0.4108
0602	0.8039	0.4304

Class	Base Rates Effective January 1, ((2005)) <u>2006</u>	
	Accident Fund	Medical Aid Fund
0603	1.2177	0.5588
0604	0.9419	0.7572
0606	0.5014	0.4058
0607	0.4669	0.3495
0608	0.3979	0.2721
0701	2.5562	0.8297
0803	0.4821	0.3694
0901	1.9397	0.9866
1002	1.0209	0.7475
1003	0.8420	0.5967
1004	0.5435	0.3343
1005	8.9651	4.9095
1007	0.4073	0.2575
1101	0.6978	0.5187
1102	1.4506	0.8056
1103	1.1786	0.8888
1104	0.4961	0.4553
1105	0.9877	0.6851
1106	0.3074	0.3126
1108	0.6182	0.4848
1109	1.3618	1.0680
1301	0.7581	0.4117
1303	0.2233	0.1712
1304	0.0266	0.0207
1305	0.3886	0.3073
1401	0.4678	0.4015
1404	0.6813	0.5535
1405	0.5175	0.4004
1407	0.6813	0.5535
1501	0.5749	0.3915
1507	0.5283	0.3649
1701	1.0007	0.6164
1702	2.4102	1.0965
1703	1.1054	0.4207
1704	1.0007	0.6164
1801	0.5650	0.3970
1802	0.7227	0.4594
2002	0.6907	0.5977
2004	0.8922	0.6861
2007	0.4457	0.3399
2008	0.3232	0.2458
2009	0.3490	0.3450
2101	0.6785	0.5389

Base Rates Effective January 1, ((2005)) <u>2006</u>			Base Rates Effective January 1, ((2005)) <u>2006</u>		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
2102	0.5478	0.4729	3512	0.3085	0.2980
2104	0.2933	0.3133	3513	0.4384	0.4090
2105	0.5843	0.4652	3602	0.1184	0.1076
2106	0.4230	0.3508	3603	0.4438	0.3698
2201	0.2467	0.2020	3604	0.7709	0.6783
2202	0.7224	0.5294	3605	0.5457	0.3775
2203	0.4603	0.4351	3701	0.2774	0.2405
2204	0.2467	0.2020	3702	0.4275	0.3668
2401	0.4714	0.3626	3708	0.6575	0.4651
2903	0.6483	0.5785	3802	0.1693	0.1505
2904	0.7148	0.5984	3808	0.4686	0.3075
2905	0.5354	0.5133	3901	0.1389	0.1610
2906	0.3466	0.2714	3902	0.4862	0.4205
2907	0.4927	0.4443	3903	0.9951	1.0094
2908	1.0923	0.7152	3905	0.1389	0.1610
2909	0.3738	0.3341	3906	0.4807	0.4197
3101	1.0776	0.6511	3909	0.2484	0.2469
3102	0.2774	0.2405	4002	1.5440	0.8535
3103	0.5698	0.4326	4101	0.2870	0.2197
3104	0.6221	0.4022	4103	0.3746	0.4215
3105	0.7629	0.6266	4107	0.1599	0.1359
3303	0.4310	0.3437	4108	0.1348	0.1201
3304	0.4663	0.4591	4109	0.2122	0.1698
3309	0.4155	0.3410	4201	0.7714	0.4124
3402	0.5307	0.3994	4301	0.6539	0.5734
3403	0.2025	0.1580	4302	0.6354	0.5049
3404	0.5044	0.4202	4304	0.9778	0.8193
3405	0.3081	0.2366	4305	1.3308	0.7440
3406	0.1900	0.1919	4401	0.3766	0.3206
3407	0.6937	0.4992	4402	0.7806	0.7112
3408	0.1730	0.1297	4404	0.5045	0.4564
3409	0.1569	0.1570	4501	0.1799	0.1734
3410	0.2470	0.2399	4502	0.0373	0.0381
3411	0.5009	0.3466	4504	0.0977	0.1154
3412	0.5896	0.3578	4601	0.7239	0.5787
3414	0.5774	0.4028	4802	0.2515	0.2218
3415	0.7923	0.5588	4803	0.2277	0.2499
3501	1.0519	0.7873	4804	0.5361	0.4514
3503	0.2609	0.3061	4805	0.2590	0.2628
3506	1.2951	0.6010	4806	0.0519	0.0492
3509	0.3743	0.3686	4808	0.4662	0.3843
3510	0.3767	0.3094	4809	0.3592	0.3363
3511	0.7302	0.5655	4810	0.1276	0.1379

Base Rates Effective January 1, ((2005)) <u>2006</u>			Base Rates Effective January 1, ((2005)) <u>2006</u>		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
4811	0.2317	0.2383	6201	0.3554	0.2355
4812	0.3749	0.3363	6202	0.6217	0.5532
4813	0.1502	0.1476	6203	0.0765	0.1096
4900	0.3955	0.2495	6204	0.1202	0.1250
4901	0.0814	0.0586	6205	0.2325	0.2167
4902	0.0981	0.0790	6206	0.2169	0.1855
4903	0.1492	0.1092	6207	0.8778	1.0654
4904	0.0294	0.0270	6208	0.2009	0.2394
4905	0.3045	0.3238	6209	0.2776	0.2776
4906	0.0994	0.0787	6301	0.1362	0.0822
4907	0.0480	0.0438	6302	0.1543	0.1452
4908	0.0815	0.1639	6303	0.0691	0.0603
4909	0.0372	0.0719	6304	0.3452	0.3658
4910	0.4311	0.3503	6305	0.0812	0.0955
5001	5.5303	2.6010	6306	0.3273	0.2747
5002	0.6172	0.4405	6308	0.0598	0.0514
5003	2.1717	1.0450	6309	0.1651	0.1644
5004	0.9502	0.7541	6402	0.2745	0.2706
5005	0.6493	0.3758	6403	0.1382	0.1472
5006	1.8785	0.9715	6404	0.1955	0.1888
5101	0.9341	0.7073	6405	0.6094	0.4479
5103	0.6811	0.6605	6406	0.0972	0.1025
5106	0.6811	0.6605	6407	0.2607	0.2455
5108	0.9017	0.7729	6408	0.3816	0.3106
5109	0.6576	0.4660	6409	0.9558	0.5915
5201	0.4402	0.3335	6410	0.2754	0.2323
5204	0.9717	0.7166	6501	0.1631	0.1416
5206	0.3955	0.2495	6502	0.0367	0.0352
5207	0.1492	0.1721	6503	0.0835	0.0478
5208	0.8956	0.6879	6504	0.3492	0.3934
5209	0.8125	0.5801	6505	0.0903	0.1081
5301	0.0294	0.0286	6506	0.0919	0.0981
5302	0.0218	0.0191	6509	0.3234	0.3400
5305	0.0488	0.0523	6510	0.5380	0.3212
5306	0.0566	0.0553	6511	0.2655	0.2773
5307	0.5105	0.3600	6601	0.1722	0.1694
6103	0.0689	0.0839	6602	0.4109	0.3683
6104	0.3533	0.3330	6603	0.3323	0.2572
6105	0.3380	0.2481	6604	0.0780	0.0720
6107	0.1109	0.1425	6605	0.2512	0.3064
6108	0.3724	0.4094	6607	0.1683	0.1443
6109	0.0915	0.0745	6608	0.6558	0.3047
6110	0.5457	0.4639	6614	885*	894*

Base Rates Effective January 1, ((2005)) <u>2006</u>			Base Rates Effective January 1, ((2005)) <u>2006</u>		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
6615	307*	322*	7118	1.1773	1.0657
6616	220*	199*	7119	1.2767	1.0108
6617	83*	76*	7120	6.0683	4.8033
6618	99*	50*	7121	5.6717	4.5201
6620	4.7930	3.6449	7122	0.5189	0.5852
6704	0.1664	0.1380	7201	1.3513	0.8221
6705	0.6992	0.9342	7202	0.0423	0.0270
6706	0.2919	0.3055	7203	0.1023	0.1344
6707	3.1192	2.9914	7204	0.0000	0.0000
6708	6.5953	8.6754	7301	0.4532	0.4079
6709	0.2469	0.2811	7302	0.8961	0.7811
6801	0.6185	0.4329	7307	0.4747	0.4470
6802	0.3770	0.3742	7308	0.2292	0.3018
6803	0.9657	0.5336	7309	0.2469	0.2811))
6804	0.2927	0.2215	<u>0101</u>	<u>1.6667</u>	<u>0.7139</u>
6809	4.5635	4.4339	<u>0103</u>	<u>2.0294</u>	<u>0.9182</u>
6901	0.0000	0.0733	<u>0104</u>	<u>1.1890</u>	<u>0.5209</u>
6902	1.2348	0.5292	<u>0105</u>	<u>1.6273</u>	<u>0.8626</u>
6903	8.4543	4.5702	<u>0107</u>	<u>1.5402</u>	<u>0.6622</u>
6904	0.4416	0.2666	<u>0108</u>	<u>1.1890</u>	<u>0.5209</u>
6905	0.3915	0.2870	<u>0112</u>	<u>0.9342</u>	<u>0.4573</u>
6906	0.0000	0.2870	<u>0201</u>	<u>3.1182</u>	<u>1.1403</u>
6907	1.1924	0.9266	<u>0202</u>	<u>3.7959</u>	<u>1.7571</u>
6908	0.4956	0.4009	<u>0210</u>	<u>1.5605</u>	<u>0.6115</u>
6909	0.1069	0.1009	<u>0212</u>	<u>1.6140</u>	<u>0.6799</u>
7100	0.0309	0.0271	<u>0214</u>	<u>1.6659</u>	<u>0.6528</u>
7101	0.0240	0.0197	<u>0217</u>	<u>1.3891</u>	<u>0.6051</u>
7102	2.9580	4.7979	<u>0219</u>	<u>1.0705</u>	<u>0.5971</u>
7103	0.6014	0.3740	<u>0301</u>	<u>0.6494</u>	<u>0.4089</u>
7104	0.0293	0.0256	<u>0302</u>	<u>2.4810</u>	<u>0.8697</u>
7105	0.0286	0.0274	<u>0303</u>	<u>2.4361</u>	<u>0.8739</u>
7106	0.1772	0.1737	<u>0306</u>	<u>1.3038</u>	<u>0.5123</u>
7107	0.1935	0.2218	<u>0307</u>	<u>1.1135</u>	<u>0.5331</u>
7108	0.1643	0.2060	<u>0308</u>	<u>0.5709</u>	<u>0.3927</u>
7109	0.1222	0.1228	<u>0403</u>	<u>1.9319</u>	<u>1.1305</u>
7110	0.3806	0.2487	<u>0502</u>	<u>1.9519</u>	<u>0.7404</u>
7111	0.4217	0.2836	<u>0504</u>	<u>1.6418</u>	<u>0.8019</u>
7112	0.5976	0.5231	<u>0507</u>	<u>3.4346</u>	<u>1.7575</u>
7113	0.3220	0.3557	<u>0508</u>	<u>2.5557</u>	<u>0.8931</u>
7114	0.5189	0.5852	<u>0509</u>	<u>1.9463</u>	<u>0.7589</u>
7115	0.5222	0.5314	<u>0510</u>	<u>1.8251</u>	<u>0.9186</u>
7116	0.6670	0.5864	<u>0511</u>	<u>2.0611</u>	<u>0.8811</u>
7117	1.3695	1.1705	<u>0512</u>	<u>1.8684</u>	<u>0.7535</u>

Base Rates Effective January 1, ((2005)) 2006			Base Rates Effective January 1, ((2005)) 2006		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
0516	2.0142	0.8931	2007	0.4941	0.3051
0517	2.0049	1.0194	2008	0.3583	0.2182
0518	1.9774	0.8082	2009	0.3974	0.3136
0519	2.7292	1.1580	2101	0.7442	0.4735
0521	0.6453	0.3491	2102	0.6095	0.4198
0601	0.7893	0.3779	2104	0.3415	0.2937
0602	0.9445	0.4256	2105	0.6561	0.4143
0603	1.3300	0.4828	2106	0.4611	0.3139
0604	1.0466	0.6733	2201	0.2725	0.1811
0606	0.5768	0.3671	2202	0.8065	0.4685
0607	0.5473	0.3210	2203	0.5048	0.3752
0608	0.4546	0.2440	2204	0.2725	0.1811
0701	2.8537	0.7345	2401	0.5503	0.3272
0803	0.5366	0.3250	2903	0.7091	0.4978
0901	1.9774	0.8082	2904	0.8083	0.5403
1002	1.0991	0.6519	2905	0.5751	0.4428
1003	0.9242	0.5153	2906	0.3735	0.2377
1004	0.6115	0.3001	2907	0.5634	0.4034
1005	10.0606	4.3933	2908	1.2207	0.6328
1007	0.4532	0.2273	2909	0.4155	0.2960
1101	0.7815	0.4640	3101	1.1844	0.5697
1102	1.6467	0.7382	3102	0.3060	0.2070
1103	1.3317	0.7833	3103	0.6309	0.3837
1104	0.5551	0.4086	3104	0.6947	0.3585
1105	1.0710	0.5933	3105	0.8220	0.5389
1106	0.3395	0.2765	3303	0.4833	0.3067
1108	0.7077	0.4348	3304	0.4806	0.3905
1109	1.5600	0.9744	3309	0.4740	0.3056
1301	0.8487	0.3704	3402	0.5977	0.3631
1303	0.2469	0.1507	3403	0.2248	0.1408
1304	0.0306	0.0187	3404	0.5414	0.3628
1305	0.4485	0.2772	3405	0.3571	0.2217
1401	0.5165	0.3556	3406	0.2129	0.1716
1404	0.7903	0.5117	3407	0.7800	0.4469
1405	0.6079	0.3753	3408	0.1977	0.1193
1407	0.6990	0.4668	3409	0.1760	0.1425
1501	0.6613	0.3673	3410	0.2818	0.2192
1507	0.5901	0.3266	3411	0.5652	0.3113
1701	1.0877	0.5505	3412	0.7102	0.3337
1702	2.7163	0.9725	3414	0.6435	0.3556
1703	1.2060	0.3676	3415	0.8990	0.4995
1704	1.0877	0.5505	3501	1.1818	0.7067
1801	0.6202	0.3491	3503	0.2910	0.2762
1802	0.8298	0.4127	3506	1.4514	0.5401

Base Rates Effective January 1, ((2005)) 2006			Base Rates Effective January 1, ((2005)) 2006		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
<u>3511</u>	<u>0.8038</u>	<u>0.5052</u>	<u>4813</u>	<u>0.1615</u>	<u>0.1322</u>
<u>3512</u>	<u>0.3479</u>	<u>0.2775</u>	<u>4900</u>	<u>0.4203</u>	<u>0.1921</u>
<u>3513</u>	<u>0.4784</u>	<u>0.3590</u>	<u>4901</u>	<u>0.0918</u>	<u>0.0518</u>
<u>3602</u>	<u>0.1317</u>	<u>0.0959</u>	<u>4902</u>	<u>0.1100</u>	<u>0.0712</u>
<u>3603</u>	<u>0.5061</u>	<u>0.3332</u>	<u>4903</u>	<u>0.1710</u>	<u>0.1008</u>
<u>3604</u>	<u>0.8491</u>	<u>0.5972</u>	<u>4904</u>	<u>0.0327</u>	<u>0.0242</u>
<u>3605</u>	<u>0.6089</u>	<u>0.3368</u>	<u>4905</u>	<u>0.3334</u>	<u>0.2884</u>
<u>3701</u>	<u>0.3060</u>	<u>0.2070</u>	<u>4906</u>	<u>0.1089</u>	<u>0.0696</u>
<u>3702</u>	<u>0.4924</u>	<u>0.3347</u>	<u>4907</u>	<u>0.0532</u>	<u>0.0387</u>
<u>3708</u>	<u>0.7507</u>	<u>0.4214</u>	<u>4908</u>	<u>0.0871</u>	<u>0.1458</u>
<u>3802</u>	<u>0.1986</u>	<u>0.1380</u>	<u>4909</u>	<u>0.0402</u>	<u>0.0640</u>
<u>3808</u>	<u>0.5082</u>	<u>0.2679</u>	<u>4910</u>	<u>0.4994</u>	<u>0.3196</u>
<u>3901</u>	<u>0.1598</u>	<u>0.1472</u>	<u>5001</u>	<u>6.2800</u>	<u>2.4003</u>
<u>3902</u>	<u>0.5475</u>	<u>0.3830</u>	<u>5002</u>	<u>0.6881</u>	<u>0.3928</u>
<u>3903</u>	<u>1.0957</u>	<u>0.8900</u>	<u>5003</u>	<u>2.4567</u>	<u>0.9638</u>
<u>3905</u>	<u>0.1523</u>	<u>0.1408</u>	<u>5004</u>	<u>1.0147</u>	<u>0.6423</u>
<u>3906</u>	<u>0.5216</u>	<u>0.3715</u>	<u>5005</u>	<u>0.6985</u>	<u>0.3299</u>
<u>3909</u>	<u>0.2685</u>	<u>0.2180</u>	<u>5006</u>	<u>2.0512</u>	<u>0.8452</u>
<u>4002</u>	<u>1.7271</u>	<u>0.7695</u>	<u>5101</u>	<u>1.0291</u>	<u>0.6327</u>
<u>4101</u>	<u>0.3168</u>	<u>0.1947</u>	<u>5103</u>	<u>0.7765</u>	<u>0.5937</u>
<u>4103</u>	<u>0.4050</u>	<u>0.3712</u>	<u>5106</u>	<u>0.7765</u>	<u>0.5937</u>
<u>4107</u>	<u>0.1815</u>	<u>0.1226</u>	<u>5108</u>	<u>0.9811</u>	<u>0.6798</u>
<u>4108</u>	<u>0.1533</u>	<u>0.1091</u>	<u>5109</u>	<u>0.7020</u>	<u>0.4028</u>
<u>4109</u>	<u>0.2331</u>	<u>0.1498</u>	<u>5201</u>	<u>0.4875</u>	<u>0.2933</u>
<u>4201</u>	<u>0.8508</u>	<u>0.3682</u>	<u>5204</u>	<u>1.0538</u>	<u>0.6174</u>
<u>4301</u>	<u>0.7154</u>	<u>0.5029</u>	<u>5206</u>	<u>0.4817</u>	<u>0.2459</u>
<u>4302</u>	<u>0.7207</u>	<u>0.4572</u>	<u>5207</u>	<u>0.1662</u>	<u>0.1577</u>
<u>4304</u>	<u>1.0793</u>	<u>0.7356</u>	<u>5208</u>	<u>0.9682</u>	<u>0.5996</u>
<u>4305</u>	<u>1.5167</u>	<u>0.6592</u>	<u>5209</u>	<u>0.8769</u>	<u>0.5024</u>
<u>4401</u>	<u>0.4228</u>	<u>0.2897</u>	<u>5301</u>	<u>0.0338</u>	<u>0.0261</u>
<u>4402</u>	<u>0.8686</u>	<u>0.6393</u>	<u>5302</u>	<u>0.0226</u>	<u>0.0160</u>
<u>4404</u>	<u>0.5823</u>	<u>0.4166</u>	<u>5305</u>	<u>0.0522</u>	<u>0.0465</u>
<u>4501</u>	<u>0.1970</u>	<u>0.1556</u>	<u>5306</u>	<u>0.0632</u>	<u>0.0500</u>
<u>4502</u>	<u>0.0415</u>	<u>0.0340</u>	<u>5307</u>	<u>0.5971</u>	<u>0.3322</u>
<u>4504</u>	<u>0.1056</u>	<u>0.1033</u>	<u>6103</u>	<u>0.0762</u>	<u>0.0752</u>
<u>4601</u>	<u>0.8062</u>	<u>0.5159</u>	<u>6104</u>	<u>0.3845</u>	<u>0.2969</u>
<u>4802</u>	<u>0.2995</u>	<u>0.2156</u>	<u>6105</u>	<u>0.3820</u>	<u>0.2308</u>
<u>4803</u>	<u>0.2554</u>	<u>0.2277</u>	<u>6107</u>	<u>0.1253</u>	<u>0.1285</u>
<u>4804</u>	<u>0.5866</u>	<u>0.3966</u>	<u>6108</u>	<u>0.4155</u>	<u>0.3619</u>
<u>4805</u>	<u>0.2944</u>	<u>0.2376</u>	<u>6109</u>	<u>0.1019</u>	<u>0.0671</u>
<u>4806</u>	<u>0.0589</u>	<u>0.0447</u>	<u>6110</u>	<u>0.6422</u>	<u>0.4177</u>
<u>4808</u>	<u>0.5288</u>	<u>0.3427</u>	<u>6201</u>	<u>0.3859</u>	<u>0.2058</u>
<u>4809</u>	<u>0.3928</u>	<u>0.2985</u>	<u>6202</u>	<u>0.6887</u>	<u>0.4884</u>
<u>4810</u>	<u>0.1413</u>	<u>0.1223</u>	<u>6203</u>	<u>0.0839</u>	<u>0.1007</u>

Base Rates Effective January 1, ((2005)) 2006			Base Rates Effective January 1, ((2005)) 2006		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
<u>6206</u>	<u>0.2400</u>	<u>0.1717</u>	<u>6707</u>	<u>3.5422</u>	<u>2.7284</u>
<u>6207</u>	<u>0.9595</u>	<u>0.9400</u>	<u>6708</u>	<u>7.2474</u>	<u>7.7311</u>
<u>6208</u>	<u>0.2284</u>	<u>0.2140</u>	<u>6709</u>	<u>0.2805</u>	<u>0.2541</u>
<u>6209</u>	<u>0.3065</u>	<u>0.2502</u>	<u>6801</u>	<u>0.6933</u>	<u>0.3908</u>
<u>6301</u>	<u>0.1540</u>	<u>0.0733</u>	<u>6802</u>	<u>0.4493</u>	<u>0.3320</u>
<u>6302</u>	<u>0.1712</u>	<u>0.1291</u>	<u>6803</u>	<u>1.0793</u>	<u>0.4628</u>
<u>6303</u>	<u>0.0735</u>	<u>0.0513</u>	<u>6804</u>	<u>0.3197</u>	<u>0.1970</u>
<u>6304</u>	<u>0.3980</u>	<u>0.3448</u>	<u>6809</u>	<u>4.9672</u>	<u>3.9116</u>
<u>6305</u>	<u>0.0939</u>	<u>0.0882</u>	<u>6901</u>	<u>0.0000</u>	<u>0.0646</u>
<u>6306</u>	<u>0.3622</u>	<u>0.2446</u>	<u>6902</u>	<u>1.3737</u>	<u>0.4702</u>
<u>6308</u>	<u>0.0682</u>	<u>0.0465</u>	<u>6903</u>	<u>9.2654</u>	<u>4.0006</u>
<u>6309</u>	<u>0.1806</u>	<u>0.1456</u>	<u>6904</u>	<u>0.4954</u>	<u>0.2367</u>
<u>6402</u>	<u>0.2992</u>	<u>0.2395</u>	<u>6905</u>	<u>0.4448</u>	<u>0.2549</u>
<u>6403</u>	<u>0.1587</u>	<u>0.1366</u>	<u>6906</u>	<u>0.0000</u>	<u>0.2549</u>
<u>6404</u>	<u>0.2227</u>	<u>0.1714</u>	<u>6907</u>	<u>1.3407</u>	<u>0.8325</u>
<u>6405</u>	<u>0.6891</u>	<u>0.4046</u>	<u>6908</u>	<u>0.5268</u>	<u>0.3400</u>
<u>6406</u>	<u>0.1121</u>	<u>0.0943</u>	<u>6909</u>	<u>0.1194</u>	<u>0.0930</u>
<u>6407</u>	<u>0.2903</u>	<u>0.2129</u>	<u>7100</u>	<u>0.0343</u>	<u>0.0242</u>
<u>6408</u>	<u>0.4236</u>	<u>0.2778</u>	<u>7101</u>	<u>0.0267</u>	<u>0.0173</u>
<u>6409</u>	<u>1.0814</u>	<u>0.5343</u>	<u>7102</u>	<u>3.2317</u>	<u>4.2799</u>
<u>6410</u>	<u>0.3073</u>	<u>0.2082</u>	<u>7103</u>	<u>0.6939</u>	<u>0.3507</u>
<u>6501</u>	<u>0.1833</u>	<u>0.1293</u>	<u>7104</u>	<u>0.0325</u>	<u>0.0227</u>
<u>6502</u>	<u>0.0428</u>	<u>0.0320</u>	<u>7105</u>	<u>0.0320</u>	<u>0.0252</u>
<u>6503</u>	<u>0.0935</u>	<u>0.0427</u>	<u>7106</u>	<u>0.1962</u>	<u>0.1576</u>
<u>6504</u>	<u>0.3848</u>	<u>0.3529</u>	<u>7107</u>	<u>0.2121</u>	<u>0.1954</u>
<u>6505</u>	<u>0.1001</u>	<u>0.0962</u>	<u>7108</u>	<u>0.1801</u>	<u>0.1781</u>
<u>6506</u>	<u>0.1040</u>	<u>0.0890</u>	<u>7109</u>	<u>0.1319</u>	<u>0.1071</u>
<u>6509</u>	<u>0.3704</u>	<u>0.3088</u>	<u>7110</u>	<u>0.4097</u>	<u>0.2124</u>
<u>6510</u>	<u>0.5882</u>	<u>0.2795</u>	<u>7111</u>	<u>0.4567</u>	<u>0.2412</u>
<u>6511</u>	<u>0.3178</u>	<u>0.2617</u>	<u>7112</u>	<u>0.6717</u>	<u>0.4732</u>
<u>6601</u>	<u>0.1971</u>	<u>0.1535</u>	<u>7113</u>	<u>0.3535</u>	<u>0.3104</u>
<u>6602</u>	<u>0.4588</u>	<u>0.3286</u>	<u>7114</u>	<u>0.5515</u>	<u>0.4804</u>
<u>6603</u>	<u>0.3750</u>	<u>0.2278</u>	<u>7115</u>	<u>0.5717</u>	<u>0.4762</u>
<u>6604</u>	<u>0.0873</u>	<u>0.0646</u>	<u>7116</u>	<u>0.7301</u>	<u>0.5178</u>
<u>6605</u>	<u>0.2871</u>	<u>0.2751</u>	<u>7117</u>	<u>1.6140</u>	<u>1.1401</u>
<u>6607</u>	<u>0.1886</u>	<u>0.1281</u>	<u>7118</u>	<u>1.3678</u>	<u>1.0116</u>
<u>6608</u>	<u>0.7260</u>	<u>0.2664</u>	<u>7119</u>	<u>1.4485</u>	<u>0.9175</u>
<u>6614</u>	<u>970*</u>	<u>759*</u>	<u>7120</u>	<u>6.7543</u>	<u>4.2809</u>
<u>6615</u>	<u>332*</u>	<u>278*</u>	<u>7121</u>	<u>6.3091</u>	<u>4.0293</u>
<u>6616</u>	<u>237*</u>	<u>167*</u>	<u>7122</u>	<u>0.5515</u>	<u>0.4804</u>
<u>6617</u>	<u>90*</u>	<u>64*</u>	<u>7201</u>	<u>1.5727</u>	<u>0.7553</u>
<u>6618</u>	<u>99*</u>	<u>50*</u>	<u>7202</u>	<u>0.0454</u>	<u>0.0232</u>
<u>6620</u>	<u>5.2052</u>	<u>3.1434</u>	<u>7203</u>	<u>0.1113</u>	<u>0.1192</u>
<u>6704</u>	<u>0.1870</u>	<u>0.1224</u>	<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>

Class	Base Rates Effective January 1, ((2005)) 2006	
	Accident Fund	Medical Aid Fund
	<u>7307</u>	<u>0.5208</u>
<u>7308</u>	<u>0.2623</u>	<u>0.2718</u>
<u>7309</u>	<u>0.2590</u>	<u>0.2375</u>

* These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

Class	((Base Rates Effective January 1, 2005		
	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
	0540	0.0274	0.0133
0541	0.0146	0.0067	0.0006
0550	0.0371	0.0148	0.0006
0551	0.0206	0.0083	0.0006))

AMENDATORY SECTION (Amending WSR 04-24-025, filed 11/23/04, effective 1/1/05)

WAC 296-17-89502 Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

Class	Base Rates Effective January 1, ((2005)) 2006		
	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
	((0540	0.0274	0.0133
0541	0.0146	0.0067	0.0006
0550	0.0371	0.0148	0.0006
0551	0.0206	0.0083	0.0006))
<u>0540</u>	<u>0.0301</u>	<u>0.0115</u>	<u>0.0005</u>
<u>0541</u>	<u>0.0169</u>	<u>0.0061</u>	<u>0.0005</u>
<u>0550</u>	<u>0.0412</u>	<u>0.0128</u>	<u>0.0005</u>
<u>0551</u>	<u>0.0230</u>	<u>0.0073</u>	<u>0.0005</u>

AMENDATORY SECTION (Amending WSR 04-24-025, filed 11/23/04, effective 1/1/05)

WAC 296-17-90492 Table I.

RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B
STANDARD PREMIUM SIZE RANGES
Effective January 1, ((2005)) 2006

Size Group Number	Standard Premium Range
((63	\$4,754 - \$5,744
62	5,745 - 6,898
61	6,899 - 8,207

Size Group Number	Standard Premium Range
60	8,208 - 9,711
59	9,712 - 11,430
58	11,431 - 13,369
57	13,370 - 15,569
56	15,570 - 17,899
55	17,900 - 20,369
54	20,370 - 22,969
53	22,970 - 25,709
52	25,710 - 28,589
51	28,590 - 31,599
50	31,600 - 34,769
49	34,770 - 38,079
48	38,080 - 41,439
47	41,440 - 44,809
46	44,810 - 48,509
45	48,510 - 52,629
44	52,630 - 57,219
43	57,220 - 62,289
42	62,290 - 67,969
41	67,970 - 74,339
40	74,340 - 81,449
39	81,450 - 89,469
38	89,470 - 98,559
37	98,560 - 108,789
36	108,790 - 119,699
35	119,700 - 131,599
34	131,600 - 144,799
33	144,800 - 159,199
32	159,200 - 175,199
31	175,200 - 191,799
30	191,800 - 210,199
29	210,200 - 231,099
28	231,100 - 254,699
27	254,700 - 281,999
26	282,000 - 313,499
25	313,500 - 349,599
24	349,600 - 391,999
23	392,000 - 441,799
22	441,800 - 500,099
21	500,100 - 569,899
20	569,900 - 654,099
19	654,100 - 754,999
18	755,000 - 879,299
17	879,300 - 1,034,399
16	1,034,400 - 1,256,999

Size Group Number	Standard Premium Range	Size Group Number	Standard Premium Range
15	1,257,000 - 1,565,999	30	195,700 - 214,499
14	1,566,000 - 2,000,999	29	214,500 - 235,799
13	2,001,000 - 2,556,999	28	235,800 - 259,899
12	2,557,000 - 3,265,999	27	259,900 - 287,799
11	3,266,000 - 4,328,999	26	287,800 - 319,899
10	4,329,000 - 5,996,999	25	319,900 - 356,799
9	5,997,000 - 8,643,999	24	356,800 - 399,999
8	8,644,000 - 12,519,999	23	400,000 - 450,899
7	12,520,000 - 18,439,999	22	450,900 - 510,399
6	18,440,000 - 28,669,999	21	510,400 - 581,599
5	28,670,000 - 45,259,999	20	581,600 - 667,499
4	45,260,000 & Over))	19	667,500 - 770,499
63	\$4,852 - \$5,862	18	770,500 - 897,399
62	5,863 - 7,040	17	897,400 - 1,055,599
61	7,041 - 8,376	16	1,055,600 - 1,282,999
60	8,377 - 9,910	15	1,283,000 - 1,597,999
59	9,911 - 11,665	14	1,598,000 - 2,041,999
58	11,666 - 13,639	13	2,042,000 - 2,609,999
57	13,640 - 15,889	12	2,610,000 - 3,332,999
56	15,890 - 18,269	11	3,333,000 - 4,417,999
55	18,270 - 20,789	10	4,418,000 - 6,119,999
54	20,790 - 23,439	9	6,120,000 - 8,820,999
53	23,440 - 26,239	8	8,821,000 - 12,779,999
52	26,240 - 29,179	7	12,780,000 - 18,819,999
51	29,180 - 32,249	6	18,820,000 - 29,259,999
50	32,250 - 35,479	5	29,260,000 - 46,189,999
49	35,480 - 38,859	4	46,190,000 & Over
48	38,860 - 42,289		
47	42,290 - 45,729		
46	45,730 - 49,509		
45	49,510 - 53,709		
44	53,710 - 58,389		
43	58,390 - 63,569		
42	63,570 - 69,369		
41	69,370 - 75,869		
40	75,870 - 83,119		
39	83,120 - 91,309		
38	91,310 - 100,579		
37	100,580 - 111,019		
36	111,020 - 122,199		
35	122,200 - 134,299		
34	134,300 - 147,799		
33	147,800 - 162,499		
32	162,500 - 178,799		
31	178,800 - 195,699		

AMENDATORY SECTION (Amending WSR 03-24-066, filed 12/1/03, effective 1/1/04)

WAC 296-17-90493 Table II.

RETROSPECTIVE RATING PLAN A
 BASIC PREMIUM RATIOS
 LOSS CONVERSION FACTOR = .729
 Effective January 1, (~~2004~~) 2006

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group														
63	.907	.856	.820	.791	.766	.745	.725	.708	.692	.677	.649	.625	.602	.563
62	.902	.850	.813	.783	.757	.735	.715	.698	.681	.666	.638	.612	.590	.550
61	.897	.844	.805	.774	.748	.726	.705	.687	.670	.654	.625	.600	.577	.536
60	.892	.838	.798	.766	.739	.716	.695	.676	.658	.642	.613	.587	.563	.522
59	.888	.831	.790	.758	.730	.706	.684	.665	.647	.630	.600	.574	.550	.508
58	.883	.825	.783	.749	.720	.696	.674	.654	.635	.618	.588	.561	.537	.495
57	.878	.818	.775	.740	.711	.686	.663	.643	.624	.607	.576	.548	.524	.482
56	.872	.810	.766	.731	.701	.675	.652	.631	.612	.594	.563	.535	.511	.468
55	.865	.802	.757	.721	.690	.664	.640	.619	.599	.582	.550	.522	.497	.455
54	.858	.794	.747	.710	.679	.652	.628	.607	.587	.569	.537	.509	.484	.442
53	.851	.785	.738	.700	.668	.641	.616	.595	.575	.556	.524	.496	.471	.429
52	.843	.776	.728	.690	.657	.629	.605	.582	.562	.544	.511	.483	.458	.417
51	.836	.767	.718	.679	.646	.618	.592	.570	.550	.531	.498	.470	.446	.405
50	.828	.758	.708	.668	.634	.605	.580	.557	.537	.518	.485	.457	.432	.392
49	.821	.748	.697	.656	.622	.593	.567	.544	.524	.505	.472	.444	.419	.379
48	.813	.739	.686	.645	.610	.581	.555	.531	.511	.492	.459	.431	.406	.367
47	.804	.729	.675	.633	.598	.568	.542	.519	.498	.479	.446	.418	.394	.355
46	.796	.718	.663	.620	.584	.554	.528	.505	.484	.465	.433	.406	.382	.344
45	.787	.707	.650	.607	.571	.541	.514	.491	.471	.452	.420	.394	.371	.334
44	.778	.695	.638	.594	.557	.527	.501	.478	.458	.440	.408	.382	.360	.324
43	.768	.683	.625	.580	.544	.514	.488	.465	.445	.427	.396	.371	.349	.314
42	.758	.671	.612	.567	.530	.500	.474	.451	.431	.413	.383	.357	.336	.301
41	.748	.659	.599	.554	.517	.486	.460	.437	.417	.399	.368	.343	.322	.288
40	.737	.647	.586	.540	.503	.472	.446	.423	.403	.385	.355	.330	.309	.276
39	.726	.635	.573	.526	.489	.458	.432	.409	.389	.372	.342	.317	.296	.264
38	.714	.622	.560	.513	.476	.445	.418	.396	.376	.359	.329	.305	.284	.252
37	.702	.608	.546	.499	.462	.431	.405	.383	.363	.346	.317	.293	.273	.242
36	.688	.594	.532	.485	.448	.417	.392	.369	.350	.333	.304	.281	.262	.231
35	.673	.578	.516	.469	.433	.402	.377	.355	.336	.320	.292	.269	.250	.221
34	.657	.562	.500	.454	.418	.388	.363	.342	.323	.307	.280	.258	.240	.211
33	.640	.546	.484	.439	.403	.374	.349	.329	.310	.295	.268	.247	.229	.202
32	.623	.529	.468	.424	.389	.360	.336	.316	.298	.283	.257	.237	.220	.193
31	.607	.512	.452	.408	.373	.345	.322	.302	.285	.270	.246	.226	.210	.185
30	.589	.495	.435	.392	.358	.331	.308	.289	.273	.259	.235	.216	.201	.178
29	.571	.478	.419	.377	.344	.317	.295	.277	.261	.247	.225	.207	.193	.171
28	.553	.461	.403	.361	.329	.303	.282	.264	.248	.235	.213	.195	.181	.160
27	.537	.446	.388	.346	.314	.288	.267	.248	.233	.219	.197	.179	.165	.143
26	.521	.430	.373	.331	.299	.273	.252	.234	.218	.205	.183	.165	.151	.129
25	.504	.414	.358	.317	.285	.259	.238	.220	.205	.192	.170	.152	.138	.117
24	.482	.394	.339	.300	.269	.245	.225	.208	.194	.181	.161	.145	.132	.113
23	.460	.374	.321	.283	.254	.231	.213	.197	.184	.172	.153	.138	.127	.109
22	.437	.355	.304	.268	.241	.219	.201	.187	.174	.163	.146	.132	.121	.105
21	.414	.336	.288	.254	.228	.208	.191	.177	.166	.156	.139	.127	.117	.102
20	.394	.318	.272	.239	.214	.194	.179	.166	.155	.145	.130	.119	.110	.096
19	.377	.301	.254	.222	.198	.179	.164	.152	.142	.133	.120	.109	.101	.089
18	.358	.283	.238	.207	.184	.166	.152	.140	.131	.123	.110	.101	.094	.083
17	.339	.266	.222	.192	.171	.154	.140	.130	.121	.114	.103	.094	.088	.079

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
16	.320	.249	.208	.179	.159	.143	.131	.121	.113	.106	.096	.088	.083	.075
15	.303	.234	.194	.168	.148	.134	.122	.113	.106	.100	.091	.084	.079	.072
14	.293	.220	.180	.157	.141	.128	.117	.109	.103	.097	.089	.082	.078	.071
13	.281	.204	.167	.148	.133	.122	.112	.105	.099	.094	.086	.081	.076	.070
12	.269	.187	.156	.139	.126	.116	.108	.101	.096	.091	.084	.079	.075	.069
11	.254	.167	.145	.130	.119	.110	.103	.097	.092	.088	.082	.077	.073	.068
10	.238	.150	.135	.122	.113	.105	.098	.093	.089	.085	.079	.075	.072	.067
9	.219	.138	.125	.115	.106	.100	.094	.089	.085	.082	.077	.073	.071	.066
8	.197	.127	.116	.107	.100	.094	.090	.086	.082	.079	.075	.072	.069	.065
7	.170	.117	.108	.100	.094	.089	.085	.082	.079	.077	.073	.070	.068	.064
6	.137	.107	.100	.094	.089	.085	.081	.078	.076	.074	.071	.068	.066	.064
5	.105	.098	.092	.087	.083	.080	.077	.075	.073	.071	.068	.066	.065	.063
4	.096	.089	.084	.081	.078	.076	.074	.072	.070	.068	.066	.065	.064	.063

AMENDATORY SECTION (Amending WSR 03-24-066, filed 12/1/03, effective 1/1/04)

WAC 296-17-90494 Table III.

RETROSPECTIVE RATING PLAN A1
 MINIMUM PREMIUM RATIOS
 BASIC PREMIUM RATIO = .058
 LOSS CONVERSION FACTOR = .729
 Effective January 1, ((2004)) 2006

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group														
63	.987	.975	.963	.951	.940	.928	.918	.907	.897	.887	.868	.850	.833	.801
62	.987	.974	.961	.949	.938	.926	.915	.904	.894	.884	.864	.845	.828	.795
61	.986	.973	.960	.948	.936	.924	.912	.901	.890	.880	.860	.841	.823	.789
60	.986	.972	.959	.946	.933	.921	.909	.898	.887	.876	.855	.836	.817	.783
59	.985	.971	.958	.944	.931	.919	.907	.895	.883	.872	.851	.831	.812	.777
58	.985	.970	.956	.943	.929	.917	.904	.892	.880	.869	.847	.826	.807	.771
57	.985	.970	.955	.941	.927	.914	.901	.889	.877	.865	.843	.822	.802	.765
56	.984	.969	.954	.939	.925	.912	.899	.886	.874	.862	.839	.818	.797	.760
55	.984	.968	.953	.938	.924	.910	.896	.884	.871	.859	.836	.814	.793	.756
54	.983	.967	.951	.936	.922	.908	.894	.881	.868	.856	.832	.810	.790	.752
53	.983	.966	.950	.935	.920	.906	.892	.878	.866	.853	.829	.807	.786	.748
52	.982	.965	.949	.933	.918	.904	.890	.876	.863	.850	.826	.804	.783	.744
51	.982	.965	.948	.932	.917	.902	.887	.874	.860	.847	.823	.800	.779	.740
50	.982	.964	.947	.930	.915	.899	.885	.871	.857	.844	.819	.796	.775	.735
49	.981	.963	.946	.929	.913	.897	.882	.868	.854	.841	.816	.792	.770	.731
48	.981	.962	.945	.927	.911	.895	.880	.866	.852	.838	.812	.789	.767	.727
47	.980	.962	.944	.926	.910	.894	.878	.864	.849	.836	.810	.786	.764	.723
46	.980	.961	.943	.925	.909	.893	.877	.863	.848	.835	.809	.785	.763	.723
45	.980	.961	.942	.925	.908	.892	.877	.862	.848	.834	.808	.784	.762	.722
44	.980	.960	.942	.924	.907	.891	.876	.861	.847	.833	.808	.784	.762	.722
43	.980	.960	.941	.924	.907	.891	.875	.861	.846	.833	.807	.784	.762	.722
42	.979	.959	.940	.922	.905	.888	.872	.857	.843	.829	.803	.779	.757	.717
41	.978	.958	.938	.920	.902	.885	.869	.853	.839	.825	.798	.774	.751	.710
40	.978	.957	.937	.918	.899	.882	.866	.850	.835	.820	.793	.768	.745	.704
39	.977	.956	.935	.916	.897	.879	.863	.846	.831	.816	.789	.764	.741	.699
38	.977	.955	.934	.914	.895	.877	.860	.843	.828	.813	.785	.760	.736	.694
37	.976	.954	.933	.912	.893	.875	.857	.841	.825	.810	.782	.756	.732	.690
36	.976	.953	.932	.911	.891	.873	.855	.838	.822	.807	.779	.753	.729	.686
35	.976	.953	.931	.910	.890	.871	.854	.837	.821	.805	.777	.751	.727	.684

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group														
34	.975	.952	.930	.909	.889	.870	.852	.835	.819	.804	.775	.749	.725	.683
33	.975	.951	.929	.908	.888	.869	.851	.834	.818	.802	.774	.748	.724	.682
32	.975	.951	.929	.907	.887	.868	.850	.833	.817	.802	.773	.747	.724	.682
31	.975	.951	.928	.907	.886	.867	.849	.832	.816	.801	.773	.747	.724	.682
30	.974	.950	.927	.906	.886	.867	.849	.832	.816	.801	.773	.747	.724	.682
29	.974	.950	.927	.906	.886	.867	.849	.832	.816	.801	.773	.747	.724	.682
28	.974	.949	.926	.904	.883	.864	.846	.828	.812	.797	.769	.744	.721	.682
27	.973	.947	.922	.899	.877	.857	.837	.819	.802	.785	.754	.727	.701	.657
26	.972	.945	.919	.895	.872	.851	.830	.811	.792	.775	.742	.712	.685	.636
25	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
24	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
23	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
22	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
21	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
20	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
19	.970	.941	.915	.891	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
18	.969	.940	.912	.887	.864	.843	.823	.804	.785	.766	.732	.701	.672	.620
17	.968	.938	.911	.885	.862	.840	.820	.801	.784	.766	.732	.701	.672	.620
16	.968	.937	.910	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
15	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
14	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
13	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
12	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
11	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
10	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
9	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
8	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
7	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
6	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
5	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
4	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620

AMENDATORY SECTION (Amending WSR 03-24-066, filed 12/1/03, effective 1/1/04)

WAC 296-17-90495 Table IV.

RETROSPECTIVE RATING PLAN A2
 MINIMUM PREMIUM RATIOS
 AND BASIC PREMIUM RATIOS
 LOSS CONVERSION FACTOR = .729
 Effective January 1, (~~2004~~) 2006

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group														
63 Basic Premium Ratio	.483	.457	.439	.425	.412	.402	.392	.383	.375	.368	.354	.342	.330	.311
Minimum Premium Ratio	.979	.960	.943	.927	.912	.898	.884	.871	.859	.846	.823	.802	.782	.745
62 Basic Premium Ratio	.480	.454	.436	.421	.408	.397	.387	.378	.370	.362	.348	.335	.324	.304
Minimum Premium Ratio	.978	.959	.941	.925	.909	.894	.880	.867	.854	.841	.818	.796	.775	.738
61 Basic Premium Ratio	.478	.451	.432	.416	.403	.392	.382	.373	.364	.356	.342	.329	.318	.297
Minimum Premium Ratio	.977	.957	.939	.922	.906	.891	.876	.862	.849	.836	.811	.789	.768	.730

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
60	Basic Premium Ratio	.475	.448	.428	.412	.399	.387	.377	.367	.358	.350	.336	.323	.311	.290
	Minimum Premium Ratio	.976	.955	.936	.919	.902	.886	.871	.857	.843	.830	.805	.781	.760	.721
59	Basic Premium Ratio	.473	.445	.424	.408	.394	.382	.371	.362	.353	.344	.329	.316	.304	.283
	Minimum Premium Ratio	.975	.954	.934	.916	.898	.882	.867	.852	.837	.824	.798	.774	.752	.713
58	Basic Premium Ratio	.471	.442	.421	.404	.389	.377	.366	.356	.347	.338	.323	.310	.298	.277
	Minimum Premium Ratio	.974	.952	.931	.912	.895	.878	.862	.847	.832	.818	.792	.767	.745	.704
57	Basic Premium Ratio	.468	.438	.417	.399	.385	.372	.361	.351	.341	.333	.317	.303	.291	.270
	Minimum Premium Ratio	.973	.950	.929	.909	.891	.874	.857	.842	.827	.813	.786	.761	.738	.697
56	Basic Premium Ratio	.465	.434	.412	.395	.380	.367	.355	.345	.335	.326	.311	.297	.285	.263
	Minimum Premium Ratio	.972	.948	.926	.906	.887	.870	.853	.837	.822	.807	.780	.755	.731	.690
55	Basic Premium Ratio	.462	.430	.408	.390	.374	.361	.349	.339	.329	.320	.304	.290	.278	.257
	Minimum Premium Ratio	.971	.946	.924	.903	.884	.866	.849	.832	.817	.802	.774	.749	.725	.683
54	Basic Premium Ratio	.458	.426	.403	.384	.369	.355	.343	.333	.323	.314	.298	.284	.271	.250
	Minimum Premium Ratio	.970	.945	.922	.900	.880	.862	.844	.827	.812	.797	.768	.743	.719	.677
53	Basic Premium Ratio	.455	.422	.398	.379	.363	.350	.337	.327	.317	.307	.291	.277	.265	.244
	Minimum Premium Ratio	.969	.943	.919	.897	.877	.858	.840	.823	.807	.792	.763	.737	.713	.671
52	Basic Premium Ratio	.451	.417	.393	.374	.358	.344	.332	.320	.310	.301	.285	.271	.258	.238
	Minimum Premium Ratio	.968	.941	.917	.895	.874	.854	.836	.819	.803	.787	.758	.732	.709	.666
51	Basic Premium Ratio	.447	.413	.388	.369	.352	.338	.325	.314	.304	.295	.278	.264	.252	.232
	Minimum Premium Ratio	.967	.939	.914	.891	.870	.851	.832	.815	.798	.782	.753	.727	.703	.660
50	Basic Premium Ratio	.443	.408	.383	.363	.346	.332	.319	.308	.298	.288	.272	.258	.245	.225
	Minimum Premium Ratio	.966	.937	.912	.888	.867	.846	.828	.810	.793	.777	.747	.721	.697	.654
49	Basic Premium Ratio	.440	.403	.378	.357	.340	.326	.313	.301	.291	.282	.265	.251	.239	.219
	Minimum Premium Ratio	.965	.935	.909	.885	.863	.842	.823	.805	.788	.772	.742	.715	.690	.647
48	Basic Premium Ratio	.436	.399	.372	.352	.334	.320	.307	.295	.285	.275	.259	.245	.232	.213
	Minimum Premium Ratio	.964	.933	.907	.882	.860	.839	.819	.801	.783	.767	.737	.710	.685	.641
47	Basic Premium Ratio	.431	.394	.367	.346	.328	.313	.300	.289	.278	.269	.252	.238	.226	.207
	Minimum Premium Ratio	.962	.931	.904	.879	.856	.835	.816	.797	.780	.763	.733	.706	.681	.637
46	Basic Premium Ratio	.427	.388	.361	.339	.321	.306	.293	.282	.271	.262	.246	.232	.220	.201
	Minimum Premium Ratio	.961	.929	.901	.876	.853	.832	.812	.793	.776	.760	.729	.702	.678	.635
45	Basic Premium Ratio	.423	.383	.354	.333	.315	.300	.286	.275	.265	.255	.239	.226	.215	.196
	Minimum Premium Ratio	.960	.927	.899	.873	.850	.829	.809	.790	.773	.757	.727	.700	.675	.633
44	Basic Premium Ratio	.418	.377	.348	.326	.308	.293	.280	.268	.258	.249	.233	.220	.209	.191
	Minimum Premium Ratio	.958	.925	.897	.871	.848	.826	.806	.788	.771	.754	.725	.698	.674	.631
43	Basic Premium Ratio	.413	.371	.342	.319	.301	.286	.273	.262	.252	.243	.227	.215	.204	.186
	Minimum Premium Ratio	.957	.924	.895	.869	.846	.824	.804	.786	.768	.752	.723	.696	.672	.630
42	Basic Premium Ratio	.408	.365	.335	.313	.294	.279	.266	.255	.245	.236	.221	.208	.197	.180
	Minimum Premium Ratio	.956	.921	.892	.865	.842	.820	.799	.781	.763	.747	.716	.690	.666	.623

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
41	Basic Premium Ratio	.403	.359	.329	.306	.288	.272	.259	.248	.238	.229	.213	.201	.190	.173
	Minimum Premium Ratio	.954	.919	.889	.862	.837	.815	.794	.775	.757	.740	.710	.683	.659	.616
40	Basic Premium Ratio	.398	.353	.322	.299	.281	.265	.252	.241	.231	.222	.207	.194	.184	.167
	Minimum Premium Ratio	.953	.917	.886	.858	.833	.810	.789	.770	.752	.735	.704	.677	.651	.609
39	Basic Premium Ratio	.392	.347	.316	.292	.274	.258	.245	.234	.224	.215	.200	.188	.177	.161
	Minimum Premium Ratio	.951	.914	.883	.855	.829	.806	.785	.765	.747	.730	.699	.671	.646	.603
38	Basic Premium Ratio	.386	.340	.309	.286	.267	.252	.238	.227	.217	.209	.194	.182	.171	.155
	Minimum Premium Ratio	.950	.913	.880	.852	.826	.802	.781	.761	.743	.725	.694	.666	.641	.598
37	Basic Premium Ratio	.380	.333	.302	.279	.260	.245	.232	.221	.211	.202	.188	.176	.166	.150
	Minimum Premium Ratio	.949	.911	.878	.849	.823	.800	.778	.757	.739	.722	.690	.661	.636	.593
36	Basic Premium Ratio	.373	.326	.295	.272	.253	.238	.225	.214	.204	.196	.181	.170	.160	.145
	Minimum Premium Ratio	.948	.909	.876	.847	.821	.797	.775	.755	.736	.718	.687	.658	.634	.590
35	Basic Premium Ratio	.366	.318	.287	.264	.246	.230	.218	.207	.197	.189	.175	.164	.154	.140
	Minimum Premium Ratio	.947	.908	.874	.845	.818	.795	.773	.752	.734	.716	.685	.656	.632	.588
34	Basic Premium Ratio	.358	.310	.279	.256	.238	.223	.211	.200	.191	.183	.169	.158	.149	.135
	Minimum Premium Ratio	.946	.906	.873	.844	.817	.793	.771	.751	.732	.714	.683	.655	.630	.587
33	Basic Premium Ratio	.349	.302	.271	.249	.231	.216	.204	.194	.184	.177	.163	.153	.144	.130
	Minimum Premium Ratio	.945	.906	.872	.842	.816	.792	.770	.750	.732	.714	.683	.655	.630	.588
32	Basic Premium Ratio	.341	.294	.263	.241	.224	.209	.197	.187	.178	.171	.158	.148	.139	.126
	Minimum Premium Ratio	.945	.905	.872	.842	.816	.792	.770	.750	.732	.714	.683	.655	.631	.589
31	Basic Premium Ratio	.333	.285	.255	.233	.216	.202	.190	.180	.172	.164	.152	.142	.134	.122
	Minimum Premium Ratio	.944	.904	.870	.841	.814	.790	.769	.749	.730	.714	.683	.656	.633	.591
30	Basic Premium Ratio	.324	.277	.247	.225	.208	.195	.183	.174	.166	.159	.147	.137	.130	.118
	Minimum Premium Ratio	.943	.902	.869	.840	.814	.790	.769	.748	.730	.713	.683	.658	.634	.595
29	Basic Premium Ratio	.315	.268	.239	.218	.201	.188	.177	.168	.160	.153	.142	.133	.126	.115
	Minimum Premium Ratio	.942	.902	.868	.839	.813	.790	.769	.749	.731	.715	.685	.659	.637	.599
28	Basic Premium Ratio	.306	.260	.231	.210	.194	.181	.170	.161	.153	.147	.136	.127	.120	.109
	Minimum Premium Ratio	.942	.901	.867	.838	.811	.788	.766	.747	.729	.711	.681	.655	.632	.593
27	Basic Premium Ratio	.298	.252	.223	.202	.186	.173	.163	.153	.146	.139	.128	.119	.112	.101
	Minimum Premium Ratio	.940	.898	.864	.833	.806	.781	.758	.738	.718	.700	.668	.640	.614	.571
26	Basic Premium Ratio	.290	.244	.216	.195	.179	.166	.155	.146	.138	.132	.121	.112	.105	.094
	Minimum Premium Ratio	.939	.896	.860	.829	.801	.775	.752	.731	.711	.691	.657	.627	.599	.553
25	Basic Premium Ratio	.281	.236	.208	.188	.172	.159	.148	.139	.132	.125	.114	.105	.098	.088
	Minimum Premium Ratio	.938	.895	.858	.826	.797	.771	.747	.725	.704	.685	.650	.619	.592	.542
24	Basic Premium Ratio	.270	.226	.199	.179	.164	.152	.142	.133	.126	.120	.110	.102	.095	.086
	Minimum Premium Ratio	.938	.894	.858	.827	.798	.773	.749	.729	.708	.689	.655	.625	.600	.551
23	Basic Premium Ratio	.259	.216	.190	.171	.156	.145	.136	.128	.121	.115	.106	.098	.093	.084
	Minimum Premium Ratio	.938	.895	.860	.829	.802	.777	.753	.733	.714	.697	.663	.636	.608	.564

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
22	Basic Premium Ratio	.248	.207	.181	.163	.150	.139	.130	.123	.116	.111	.102	.095	.090	.082
	Minimum Premium Ratio	.938	.896	.862	.832	.805	.781	.760	.739	.722	.704	.674	.648	.622	.580
21	Basic Premium Ratio	.236	.197	.173	.156	.143	.133	.125	.118	.112	.107	.099	.093	.088	.080
	Minimum Premium Ratio	.940	.899	.865	.836	.811	.787	.766	.747	.730	.714	.685	.659	.636	.599
20	Basic Premium Ratio	.226	.188	.165	.149	.136	.126	.119	.112	.107	.102	.094	.089	.084	.077
	Minimum Premium Ratio	.939	.898	.865	.835	.810	.788	.766	.748	.730	.715	.689	.662	.642	.607
19	Basic Premium Ratio	.218	.180	.156	.140	.128	.119	.111	.105	.100	.096	.089	.084	.080	.074
	Minimum Premium Ratio	.937	.894	.860	.830	.804	.781	.761	.742	.724	.708	.680	.655	.633	.597
18	Basic Premium Ratio	.208	.171	.148	.133	.121	.112	.105	.099	.095	.091	.084	.080	.076	.071
	Minimum Premium Ratio	.935	.892	.857	.826	.800	.777	.756	.737	.718	.703	.677	.651	.631	.594
17	Basic Premium Ratio	.199	.162	.140	.125	.115	.106	.099	.094	.090	.086	.081	.076	.073	.069
	Minimum Premium Ratio	.934	.891	.856	.826	.798	.775	.755	.736	.717	.703	.673	.653	.631	.592
16	Basic Premium Ratio	.189	.154	.133	.119	.109	.101	.095	.090	.086	.082	.077	.073	.071	.067
	Minimum Premium Ratio	.934	.890	.855	.825	.798	.775	.754	.736	.719	.706	.679	.658	.633	.598
15	Basic Premium Ratio	.181	.146	.126	.113	.103	.096	.090	.086	.082	.079	.075	.071	.069	.065
	Minimum Premium Ratio	.933	.889	.855	.826	.801	.778	.759	.739	.724	.710	.682	.663	.641	.613
14	Basic Premium Ratio	.176	.139	.119	.108	.100	.093	.088	.084	.081	.078	.074	.070	.068	.065
	Minimum Premium Ratio	.924	.878	.850	.821	.796	.775	.755	.737	.720	.706	.679	.663	.642	.608
13	Basic Premium Ratio	.170	.131	.113	.103	.096	.090	.085	.082	.079	.076	.072	.070	.067	.064
	Minimum Premium Ratio	.915	.868	.844	.818	.793	.772	.754	.735	.719	.706	.682	.656	.643	.612
12	Basic Premium Ratio	.164	.123	.107	.099	.092	.087	.083	.080	.077	.075	.071	.069	.067	.064
	Minimum Premium Ratio	.904	.860	.839	.812	.791	.770	.751	.732	.718	.702	.680	.655	.637	.606
11	Basic Premium Ratio	.156	.113	.102	.094	.089	.084	.081	.078	.075	.073	.070	.068	.066	.063
	Minimum Premium Ratio	.892	.859	.834	.811	.786	.768	.747	.730	.718	.704	.678	.655	.638	.612
10	Basic Premium Ratio	.148	.104	.097	.090	.086	.082	.078	.076	.074	.072	.069	.067	.065	.063
	Minimum Premium Ratio	.876	.858	.829	.807	.782	.762	.748	.728	.712	.699	.676	.654	.640	.605
9	Basic Premium Ratio	.139	.098	.092	.087	.082	.079	.076	.074	.072	.070	.068	.066	.065	.062
	Minimum Premium Ratio	.856	.853	.825	.800	.782	.761	.744	.727	.712	.702	.674	.654	.631	.612
8	Basic Premium Ratio	.106	.093	.087	.083	.079	.076	.074	.072	.070	.069	.067	.065	.064	.062
	Minimum Premium Ratio	.855	.846	.823	.798	.779	.761	.741	.725	.713	.697	.671	.654	.633	.604
7	Basic Premium Ratio	.097	.088	.083	.079	.076	.074	.072	.070	.069	.068	.066	.064	.063	.061
	Minimum Premium Ratio	.855	.840	.818	.797	.777	.756	.738	.725	.707	.691	.668	.655	.636	.613
6	Basic Premium Ratio	.089	.083	.079	.076	.074	.072	.070	.068	.067	.066	.065	.063	.062	.061
	Minimum Premium Ratio	.855	.836	.814	.792	.768	.749	.735	.725	.709	.696	.664	.656	.640	.602
5	Basic Premium Ratio	.082	.078	.075	.073	.071	.069	.068	.067	.066	.065	.063	.062	.062	.061
	Minimum Premium Ratio	.855	.833	.811	.787	.767	.752	.732	.714	.700	.689	.677	.658	.624	.586
4	Basic Premium Ratio	.077	.074	.071	.070	.068	.067	.066	.065	.064	.063	.062	.062	.061	.061
	Minimum Premium Ratio	.855	.830	.811	.782	.767	.752	.729	.714	.700	.689	.677	.658	.624	.586

AMENDATORY SECTION (Amending WSR 03-24-066, filed 12/1/03, effective 1/1/04)

WAC 296-17-90496 Table V.

RETROSPECTIVE RATING PLAN A3
 MINIMUM PREMIUM RATIOS
 AND BASIC PREMIUM RATIOS
 LOSS CONVERSION FACTOR = .729
 Effective January 1, ((2004)) 2006

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group														
63 Basic Premium Ratio	.818	.762	.722	.692	.666	.642	.622	.603	.586	.571	.543	.517	.495	.458
63 Minimum Premium Ratio	.947	.916	.892	.871	.853	.837	.822	.808	.795	.782	.759	.738	.718	.682
62 Basic Premium Ratio	.814	.760	.719	.687	.659	.636	.616	.596	.578	.562	.534	.509	.486	.448
62 Minimum Premium Ratio	.945	.912	.887	.866	.848	.831	.815	.801	.788	.775	.751	.729	.709	.673
61 Basic Premium Ratio	.813	.754	.713	.680	.652	.628	.606	.587	.570	.553	.524	.497	.475	.437
61 Minimum Premium Ratio	.942	.909	.883	.861	.842	.825	.809	.794	.780	.767	.743	.721	.700	.663
60 Basic Premium Ratio	.811	.749	.705	.672	.644	.618	.597	.577	.558	.543	.513	.486	.464	.425
60 Minimum Premium Ratio	.939	.905	.879	.856	.836	.819	.802	.787	.773	.759	.734	.712	.690	.653
59 Basic Premium Ratio	.805	.744	.699	.664	.634	.608	.586	.567	.549	.532	.501	.475	.452	.413
59 Minimum Premium Ratio	.937	.901	.874	.851	.831	.813	.796	.780	.765	.751	.726	.703	.681	.643
58 Basic Premium Ratio	.802	.737	.691	.655	.626	.599	.577	.557	.538	.521	.490	.464	.441	.403
58 Minimum Premium Ratio	.934	.898	.870	.846	.825	.807	.789	.773	.758	.744	.718	.694	.672	.633
57 Basic Premium Ratio	.796	.731	.685	.647	.618	.591	.568	.547	.528	.511	.480	.454	.431	.392
57 Minimum Premium Ratio	.932	.894	.865	.841	.819	.800	.782	.766	.751	.736	.710	.685	.663	.624
56 Basic Premium Ratio	.794	.725	.678	.640	.609	.581	.558	.537	.518	.501	.470	.443	.421	.382
56 Minimum Premium Ratio	.928	.890	.860	.835	.813	.794	.776	.759	.743	.728	.701	.677	.654	.614
55 Basic Premium Ratio	.790	.721	.671	.632	.601	.573	.550	.527	.509	.490	.460	.433	.411	.371
55 Minimum Premium Ratio	.925	.885	.855	.830	.807	.787	.768	.752	.735	.721	.693	.668	.645	.606
54 Basic Premium Ratio	.787	.714	.666	.626	.592	.565	.541	.518	.499	.481	.450	.423	.400	.363
54 Minimum Premium Ratio	.921	.881	.849	.823	.801	.780	.761	.744	.728	.713	.685	.660	.637	.597
53 Basic Premium Ratio	.784	.709	.659	.617	.585	.555	.532	.509	.489	.472	.440	.414	.391	.353
53 Minimum Premium Ratio	.917	.876	.844	.818	.794	.774	.754	.737	.721	.705	.677	.652	.629	.589
52 Basic Premium Ratio	.780	.704	.651	.610	.577	.548	.522	.501	.481	.463	.431	.405	.382	.345
52 Minimum Premium Ratio	.913	.871	.839	.812	.788	.767	.748	.729	.713	.697	.669	.644	.621	.581
51 Basic Premium Ratio	.775	.698	.644	.602	.567	.539	.514	.491	.471	.454	.422	.396	.372	.336
51 Minimum Premium Ratio	.909	.866	.833	.806	.782	.760	.740	.722	.705	.689	.661	.635	.613	.573
50 Basic Premium Ratio	.769	.690	.634	.593	.557	.529	.502	.480	.460	.442	.411	.384	.362	.325
50 Minimum Premium Ratio	.905	.861	.828	.799	.775	.752	.733	.714	.697	.681	.652	.627	.604	.564
49 Basic Premium Ratio	.763	.682	.626	.583	.548	.519	.493	.470	.450	.432	.400	.374	.352	.316
49 Minimum Premium Ratio	.901	.856	.822	.793	.768	.745	.725	.706	.689	.673	.644	.618	.595	.555
48 Basic Premium Ratio	.756	.674	.617	.574	.538	.509	.482	.460	.439	.422	.390	.365	.342	.307
48 Minimum Premium Ratio	.897	.851	.816	.786	.761	.738	.718	.699	.682	.665	.636	.610	.587	.547

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size															
Group															
47	Basic Premium Ratio	.750	.665	.607	.564	.528	.498	.472	.449	.429	.411	.381	.355	.333	.298
	Minimum Premium Ratio	.892	.846	.810	.780	.754	.731	.710	.692	.674	.658	.628	.602	.579	.539
46	Basic Premium Ratio	.741	.654	.596	.552	.516	.485	.460	.437	.418	.400	.370	.345	.323	.289
	Minimum Premium Ratio	.888	.840	.803	.773	.747	.724	.703	.684	.666	.650	.621	.596	.573	.534
45	Basic Premium Ratio	.731	.643	.585	.540	.503	.473	.448	.426	.406	.389	.360	.335	.315	.282
	Minimum Premium Ratio	.884	.834	.796	.766	.740	.717	.696	.677	.660	.643	.614	.589	.567	.528
44	Basic Premium Ratio	.722	.633	.573	.528	.493	.463	.437	.415	.396	.379	.350	.326	.306	.274
	Minimum Premium Ratio	.879	.828	.790	.759	.732	.709	.689	.670	.653	.637	.608	.583	.561	.523
43	Basic Premium Ratio	.712	.622	.562	.517	.481	.451	.426	.405	.386	.370	.341	.318	.298	.267
	Minimum Premium Ratio	.874	.822	.783	.752	.726	.703	.682	.663	.646	.630	.602	.578	.556	.518
42	Basic Premium Ratio	.703	.612	.551	.506	.470	.440	.415	.394	.375	.358	.330	.307	.288	.257
	Minimum Premium Ratio	.869	.815	.776	.745	.718	.694	.673	.654	.637	.621	.593	.568	.547	.509
41	Basic Premium Ratio	.696	.602	.541	.495	.458	.429	.403	.382	.363	.347	.319	.296	.277	.247
	Minimum Premium Ratio	.863	.809	.769	.737	.710	.686	.665	.645	.628	.612	.583	.559	.537	.499
40	Basic Premium Ratio	.686	.592	.530	.484	.448	.418	.392	.371	.352	.336	.308	.286	.267	.237
	Minimum Premium Ratio	.858	.802	.762	.729	.701	.677	.656	.637	.619	.603	.574	.549	.527	.490
39	Basic Premium Ratio	.677	.581	.520	.473	.437	.407	.382	.360	.342	.325	.298	.275	.257	.228
	Minimum Premium Ratio	.852	.796	.754	.721	.693	.669	.648	.628	.610	.594	.566	.541	.519	.482
38	Basic Premium Ratio	.668	.571	.509	.463	.426	.396	.372	.350	.332	.315	.288	.266	.248	.220
	Minimum Premium Ratio	.846	.789	.747	.714	.686	.661	.639	.620	.602	.586	.557	.533	.510	.473
37	Basic Premium Ratio	.659	.562	.499	.453	.416	.387	.362	.340	.322	.306	.279	.257	.240	.212
	Minimum Premium Ratio	.839	.781	.740	.706	.678	.653	.631	.612	.594	.578	.550	.525	.503	.466
36	Basic Premium Ratio	.649	.551	.488	.442	.405	.376	.351	.330	.312	.297	.270	.249	.231	.204
	Minimum Premium Ratio	.832	.774	.732	.698	.670	.645	.624	.604	.586	.570	.542	.517	.496	.459
35	Basic Premium Ratio	.635	.538	.475	.429	.393	.365	.340	.320	.302	.286	.260	.240	.223	.196
	Minimum Premium Ratio	.825	.766	.724	.690	.662	.637	.616	.596	.579	.563	.535	.510	.489	.453
34	Basic Premium Ratio	.623	.525	.463	.418	.382	.354	.330	.309	.292	.277	.252	.231	.215	.189
	Minimum Premium Ratio	.816	.757	.715	.682	.654	.629	.608	.589	.571	.556	.528	.504	.483	.447
33	Basic Premium Ratio	.610	.513	.451	.406	.371	.343	.320	.300	.283	.268	.244	.224	.208	.183
	Minimum Premium Ratio	.808	.749	.707	.674	.646	.622	.600	.582	.564	.549	.521	.498	.477	.442
32	Basic Premium Ratio	.597	.501	.440	.395	.361	.334	.311	.291	.274	.260	.236	.217	.201	.177
	Minimum Premium Ratio	.799	.740	.699	.666	.638	.614	.593	.575	.558	.543	.515	.492	.472	.438
31	Basic Premium Ratio	.582	.486	.425	.382	.348	.321	.299	.280	.264	.250	.226	.208	.193	.171
	Minimum Premium Ratio	.791	.732	.690	.658	.630	.606	.586	.567	.551	.536	.510	.487	.467	.434
30	Basic Premium Ratio	.567	.471	.412	.369	.336	.309	.288	.269	.254	.240	.218	.201	.187	.165
	Minimum Premium Ratio	.782	.723	.681	.649	.622	.599	.579	.561	.545	.530	.504	.482	.463	.430

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
29	Basic Premium Ratio	.551	.457	.398	.356	.324	.299	.277	.260	.245	.232	.210	.194	.180	.160
	Minimum Premium Ratio	.773	.714	.673	.642	.615	.592	.572	.555	.539	.524	.499	.477	.459	.427
28	Basic Premium Ratio	.537	.444	.386	.344	.313	.287	.266	.249	.234	.221	.200	.184	.171	.151
	Minimum Premium Ratio	.764	.705	.665	.633	.606	.584	.564	.546	.530	.516	.491	.470	.451	.421
27	Basic Premium Ratio	.524	.431	.373	.332	.300	.275	.254	.236	.221	.208	.187	.170	.157	.136
	Minimum Premium Ratio	.755	.697	.655	.623	.596	.573	.552	.534	.518	.502	.476	.453	.433	.400
26	Basic Premium Ratio	.510	.418	.361	.320	.288	.263	.242	.224	.209	.196	.175	.158	.145	.124
	Minimum Premium Ratio	.747	.688	.646	.613	.586	.562	.541	.523	.505	.490	.463	.439	.418	.383
25	Basic Premium Ratio	.497	.405	.348	.307	.276	.251	.230	.213	.198	.185	.164	.147	.134	.114
	Minimum Premium Ratio	.738	.679	.638	.605	.577	.553	.531	.512	.495	.479	.451	.427	.405	.369
24	Basic Premium Ratio	.476	.386	.331	.292	.262	.238	.218	.202	.188	.176	.157	.141	.129	.111
	Minimum Premium Ratio	.727	.669	.628	.596	.569	.546	.525	.506	.490	.474	.447	.423	.402	.367
23	Basic Premium Ratio	.454	.368	.315	.277	.249	.226	.208	.192	.179	.168	.150	.136	.124	.107
	Minimum Premium Ratio	.716	.659	.619	.588	.561	.539	.519	.501	.485	.469	.443	.420	.400	.365
22	Basic Premium Ratio	.434	.351	.300	.264	.237	.216	.198	.184	.172	.161	.144	.131	.120	.104
	Minimum Premium Ratio	.704	.649	.611	.580	.555	.533	.513	.496	.480	.465	.439	.417	.397	.363
21	Basic Premium Ratio	.414	.335	.286	.252	.226	.206	.190	.176	.165	.155	.139	.126	.117	.102
	Minimum Premium Ratio	.693	.640	.603	.573	.548	.527	.508	.491	.476	.461	.436	.414	.395	.361
20	Basic Premium Ratio	.394	.318	.271	.238	.214	.194	.178	.166	.155	.145	.130	.119	.110	.096
	Minimum Premium Ratio	.683	.631	.595	.566	.541	.520	.502	.485	.470	.456	.431	.410	.391	.358
19	Basic Premium Ratio	.377	.301	.254	.222	.198	.179	.164	.152	.142	.133	.120	.109	.101	.089
	Minimum Premium Ratio	.674	.621	.585	.557	.533	.513	.494	.478	.464	.450	.426	.405	.387	.355
18	Basic Premium Ratio	.358	.283	.238	.207	.184	.166	.152	.140	.131	.123	.110	.101	.094	.083
	Minimum Premium Ratio	.664	.612	.575	.547	.524	.505	.488	.472	.458	.445	.421	.401	.383	.352
17	Basic Premium Ratio	.339	.266	.222	.192	.171	.154	.140	.130	.121	.114	.103	.094	.088	.079
	Minimum Premium Ratio	.654	.602	.567	.539	.517	.497	.480	.466	.453	.440	.418	.398	.380	.350
16	Basic Premium Ratio	.320	.249	.208	.179	.159	.143	.131	.121	.113	.106	.096	.088	.083	.075
	Minimum Premium Ratio	.644	.593	.559	.532	.510	.491	.475	.461	.448	.436	.414	.395	.378	.348
15	Basic Premium Ratio	.303	.234	.194	.168	.148	.134	.122	.113	.106	.100	.091	.084	.079	.072
	Minimum Premium Ratio	.635	.586	.552	.526	.504	.486	.470	.457	.445	.433	.412	.393	.376	.346
14	Basic Premium Ratio	.293	.220	.180	.157	.141	.128	.117	.109	.103	.097	.089	.082	.078	.071
	Minimum Premium Ratio	.630	.579	.545	.521	.501	.483	.468	.455	.443	.432	.411	.392	.375	.346
13	Basic Premium Ratio	.281	.204	.167	.148	.133	.122	.112	.105	.099	.094	.086	.081	.076	.070
	Minimum Premium Ratio	.624	.571	.538	.516	.497	.480	.465	.453	.441	.430	.409	.391	.374	.345
12	Basic Premium Ratio	.269	.187	.156	.139	.126	.116	.108	.101	.096	.091	.084	.079	.075	.069
	Minimum Premium Ratio	.618	.562	.533	.512	.493	.477	.463	.451	.440	.429	.408	.390	.374	.345

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
11	Basic Premium Ratio	.254	.167	.145	.130	.119	.110	.103	.097	.092	.088	.082	.077	.073	.068
	Minimum Premium Ratio	.611	.552	.527	.507	.490	.474	.461	.449	.438	.427	.407	.389	.373	.344
10	Basic Premium Ratio	.238	.150	.135	.122	.113	.105	.098	.093	.089	.085	.079	.075	.072	.067
	Minimum Premium Ratio	.603	.544	.522	.503	.487	.472	.458	.447	.436	.426	.406	.388	.372	.344
9	Basic Premium Ratio	.219	.138	.125	.115	.106	.100	.094	.089	.085	.082	.077	.073	.071	.066
	Minimum Premium Ratio	.593	.538	.517	.500	.483	.469	.456	.445	.434	.424	.405	.387	.372	.343
8	Basic Premium Ratio	.197	.127	.116	.107	.100	.094	.090	.086	.082	.079	.075	.072	.069	.065
	Minimum Premium Ratio	.582	.532	.513	.496	.480	.466	.454	.443	.433	.423	.404	.387	.371	.343
7	Basic Premium Ratio	.170	.117	.108	.100	.094	.089	.085	.082	.079	.077	.073	.070	.068	.064
	Minimum Premium Ratio	.569	.527	.509	.492	.477	.464	.452	.441	.431	.422	.403	.386	.370	.342
6	Basic Premium Ratio	.137	.107	.100	.094	.089	.085	.081	.078	.076	.074	.071	.068	.066	.064
	Minimum Premium Ratio	.552	.522	.505	.489	.475	.462	.450	.439	.430	.420	.402	.385	.369	.342
5	Basic Premium Ratio	.105	.098	.092	.087	.083	.080	.077	.075	.073	.071	.068	.066	.065	.063
	Minimum Premium Ratio	.536	.518	.501	.486	.472	.459	.448	.438	.428	.419	.400	.384	.369	.342
4	Basic Premium Ratio	.104	.089	.085	.081	.078	.075	.073	.072	.070	.068	.066	.065	.064	.062
	Minimum Premium Ratio	.532	.513	.497	.483	.469	.457	.446	.436	.427	.417	.399	.383	.368	.342

AMENDATORY SECTION (Amending WSR 03-24-066, filed 12/1/03, effective 1/1/04)

WAC 296-17-90497 Table VI.

RETROSPECTIVE RATING PLAN B
 BASIC PREMIUM RATIOS
 AND LOSS CONVERSION FACTORS
 Effective January 1, ((2004)) 2006

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
63	Basic Premium Ratio	.993	.986	.979	.972	.965	.958	.951	.944	.938	.931	.917	.903	.889	.861
	Loss Conversion Factor	.007	.014	.021	.028	.035	.042	.049	.056	.062	.069	.083	.097	.111	.139
62	Basic Premium Ratio	.992	.985	.977	.970	.962	.954	.947	.939	.931	.924	.909	.893	.878	.848
	Loss Conversion Factor	.008	.015	.023	.030	.038	.046	.053	.061	.069	.076	.091	.107	.122	.152
61	Basic Premium Ratio	.992	.983	.975	.967	.959	.950	.942	.934	.926	.917	.901	.884	.868	.835
	Loss Conversion Factor	.008	.017	.025	.033	.041	.050	.058	.066	.074	.083	.099	.116	.132	.165
60	Basic Premium Ratio	.991	.982	.973	.964	.955	.946	.937	.928	.919	.910	.892	.874	.856	.819
	Loss Conversion Factor	.009	.018	.027	.036	.045	.054	.063	.072	.081	.090	.108	.126	.144	.181
59	Basic Premium Ratio	.990	.980	.971	.961	.951	.941	.931	.921	.912	.902	.882	.862	.843	.803
	Loss Conversion Factor	.010	.020	.029	.039	.049	.059	.069	.079	.088	.098	.118	.138	.157	.197
58	Basic Premium Ratio	.989	.979	.968	.957	.947	.936	.926	.915	.904	.894	.872	.851	.830	.787
	Loss Conversion Factor	.011	.021	.032	.043	.053	.064	.074	.085	.096	.106	.128	.149	.170	.213
57	Basic Premium Ratio	.989	.977	.966	.954	.943	.931	.920	.908	.897	.886	.863	.840	.817	.771
	Loss Conversion Factor	.011	.023	.034	.046	.057	.069	.080	.092	.103	.114	.137	.160	.183	.229

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size															
Group															
56	Basic Premium Ratio	.988	.976	.963	.951	.939	.927	.914	.902	.890	.878	.853	.829	.805	.756
	Loss Conversion Factor	.012	.024	.037	.049	.061	.073	.086	.098	.110	.122	.147	.171	.195	.244
55	Basic Premium Ratio	.987	.974	.961	.948	.935	.922	.909	.896	.883	.870	.844	.818	.792	.741
	Loss Conversion Factor	.013	.026	.039	.052	.065	.078	.091	.104	.117	.130	.156	.182	.208	.259
54	Basic Premium Ratio	.986	.972	.959	.945	.931	.917	.904	.890	.876	.862	.835	.807	.780	.724
	Loss Conversion Factor	.014	.028	.041	.055	.069	.083	.096	.110	.124	.138	.165	.193	.220	.276
53	Basic Premium Ratio	.985	.971	.956	.941	.927	.912	.898	.883	.868	.854	.824	.795	.766	.707
	Loss Conversion Factor	.015	.029	.044	.059	.073	.088	.102	.117	.132	.146	.176	.205	.234	.293
52	Basic Premium Ratio	.984	.969	.953	.938	.922	.907	.891	.876	.860	.845	.814	.783	.752	.690
	Loss Conversion Factor	.016	.031	.047	.062	.078	.093	.109	.124	.140	.155	.186	.217	.248	.310
51	Basic Premium Ratio	.983	.967	.950	.934	.917	.901	.884	.868	.851	.835	.802	.769	.735	.669
	Loss Conversion Factor	.017	.033	.050	.066	.083	.099	.116	.132	.149	.165	.198	.231	.265	.331
50	Basic Premium Ratio	.982	.965	.947	.929	.911	.894	.876	.858	.841	.823	.787	.752	.717	.646
	Loss Conversion Factor	.018	.035	.053	.071	.089	.106	.124	.142	.159	.177	.213	.248	.283	.354
49	Basic Premium Ratio	.981	.962	.943	.924	.905	.886	.867	.848	.829	.810	.772	.734	.696	.621
	Loss Conversion Factor	.019	.038	.057	.076	.095	.114	.133	.152	.171	.190	.228	.266	.304	.379
48	Basic Premium Ratio	.980	.959	.939	.919	.898	.878	.858	.837	.817	.797	.756	.716	.675	.594
	Loss Conversion Factor	.020	.041	.061	.081	.102	.122	.142	.163	.183	.203	.244	.284	.325	.406
47	Basic Premium Ratio	.978	.957	.935	.913	.891	.870	.848	.826	.805	.783	.740	.696	.653	.566
	Loss Conversion Factor	.022	.043	.065	.087	.109	.130	.152	.174	.195	.217	.260	.304	.347	.434
46	Basic Premium Ratio	.977	.954	.931	.908	.885	.862	.839	.816	.793	.770	.724	.677	.631	.539
	Loss Conversion Factor	.023	.046	.069	.092	.115	.138	.161	.184	.207	.230	.276	.323	.369	.461
45	Basic Premium Ratio	.976	.951	.927	.902	.878	.854	.829	.805	.780	.756	.707	.658	.609	.512
	Loss Conversion Factor	.024	.049	.073	.098	.122	.146	.171	.195	.220	.244	.293	.342	.391	.488
44	Basic Premium Ratio	.974	.948	.922	.897	.871	.845	.819	.793	.767	.742	.690	.638	.587	.483
	Loss Conversion Factor	.026	.052	.078	.103	.129	.155	.181	.207	.233	.258	.310	.362	.413	.517
43	Basic Premium Ratio	.973	.945	.918	.891	.863	.836	.809	.781	.754	.727	.672	.617	.562	.453
	Loss Conversion Factor	.027	.055	.082	.109	.137	.164	.191	.219	.246	.273	.328	.383	.438	.547
42	Basic Premium Ratio	.970	.941	.911	.881	.852	.822	.792	.763	.733	.703	.644	.585	.525	.406
	Loss Conversion Factor	.030	.059	.089	.119	.148	.178	.208	.237	.267	.297	.356	.415	.475	.594
41	Basic Premium Ratio	.968	.935	.903	.870	.838	.806	.773	.741	.708	.676	.611	.546	.481	.352
	Loss Conversion Factor	.032	.065	.097	.130	.162	.194	.227	.259	.292	.324	.389	.454	.519	.648
40	Basic Premium Ratio	.965	.929	.894	.859	.823	.788	.753	.718	.682	.647	.576	.506	.435	.294
	Loss Conversion Factor	.035	.071	.106	.141	.177	.212	.247	.282	.318	.353	.424	.494	.565	.706
39	Basic Premium Ratio	.962	.923	.885	.847	.808	.770	.732	.693	.655	.616	.540	.463	.386	.233
	Loss Conversion Factor	.038	.077	.115	.153	.192	.230	.268	.307	.345	.384	.460	.537	.614	.767
38	Basic Premium Ratio	.958	.917	.875	.834	.792	.751	.709	.668	.626	.585	.502	.419	.336	.170
	Loss Conversion Factor	.042	.083	.125	.166	.208	.249	.291	.332	.374	.415	.498	.581	.664	.830

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size															
Group															
37	Basic Premium Ratio	.955	.910	.865	.820	.776	.731	.686	.641	.596	.551	.461	.371	.282	.102
	Loss Conversion Factor	.045	.090	.135	.180	.224	.269	.314	.359	.404	.449	.539	.629	.718	.898
36	Basic Premium Ratio	.951	.903	.854	.806	.757	.709	.660	.612	.563	.514	.417	.320	.223	.029
	Loss Conversion Factor	.049	.097	.146	.194	.243	.291	.340	.388	.437	.486	.583	.680	.777	.971
35	Basic Premium Ratio	.947	.895	.842	.789	.736	.684	.631	.578	.525	.473	.367	.262	.156	.000
	Loss Conversion Factor	.053	.105	.158	.211	.264	.316	.369	.422	.475	.527	.633	.738	.844	.987
34	Basic Premium Ratio	.943	.886	.829	.771	.714	.657	.600	.543	.486	.428	.314	.200	.085	.000
	Loss Conversion Factor	.057	.114	.171	.229	.286	.343	.400	.457	.514	.572	.686	.800	.915	.969
33	Basic Premium Ratio	.938	.876	.814	.752	.690	.628	.567	.505	.443	.381	.257	.133	.009	.000
	Loss Conversion Factor	.062	.124	.186	.248	.310	.372	.433	.495	.557	.619	.743	.867	.991	.953
32	Basic Premium Ratio	.933	.866	.799	.732	.665	.598	.531	.463	.396	.329	.195	.061	.000	.000
	Loss Conversion Factor	.067	.134	.201	.268	.335	.402	.469	.537	.604	.671	.805	.939	.984	.939
31	Basic Premium Ratio	.927	.854	.781	.707	.634	.561	.488	.415	.342	.268	.122	.000	.000	.000
	Loss Conversion Factor	.073	.146	.219	.293	.366	.439	.512	.585	.658	.732	.878	.994	.965	.925
30	Basic Premium Ratio	.920	.840	.760	.680	.600	.520	.440	.360	.280	.200	.040	.000	.000	.000
	Loss Conversion Factor	.080	.160	.240	.320	.400	.480	.560	.640	.720	.800	.960	.975	.949	.913
29	Basic Premium Ratio	.913	.826	.739	.651	.564	.477	.390	.303	.216	.128	.000	.000	.000	.000
	Loss Conversion Factor	.087	.174	.261	.349	.436	.523	.610	.697	.784	.872	.990	.958	.935	.902
28	Basic Premium Ratio	.904	.807	.711	.615	.519	.422	.326	.230	.134	.037	.000	.000	.000	.000
	Loss Conversion Factor	.096	.193	.289	.385	.481	.578	.674	.770	.866	.963	.969	.940	.918	.887
27	Basic Premium Ratio	.892	.785	.677	.570	.462	.355	.247	.140	.032	.000	.000	.000	.000	.000
	Loss Conversion Factor	.108	.215	.323	.430	.538	.645	.753	.860	.968	.983	.946	.918	.897	.868
26	Basic Premium Ratio	.881	.761	.642	.522	.403	.283	.164	.044	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.119	.239	.358	.478	.597	.717	.836	.956	.983	.960	.925	.899	.879	.851
25	Basic Premium Ratio	.868	.736	.604	.472	.340	.208	.075	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.132	.264	.396	.528	.660	.792	.925	.987	.961	.940	.907	.883	.864	.838
24	Basic Premium Ratio	.852	.705	.557	.409	.261	.114	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.148	.295	.443	.591	.739	.886	.992	.964	.941	.922	.893	.872	.855	.832
23	Basic Premium Ratio	.835	.669	.504	.338	.173	.008	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.165	.331	.496	.662	.827	.992	.969	.944	.924	.907	.881	.862	.848	.827
22	Basic Premium Ratio	.814	.628	.442	.256	.070	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.186	.372	.558	.744	.930	.978	.949	.927	.909	.894	.871	.854	.841	.823
21	Basic Premium Ratio	.790	.579	.369	.159	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.210	.421	.631	.841	.990	.957	.932	.912	.896	.882	.862	.847	.835	.818
20	Basic Premium Ratio	.758	.516	.274	.032	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.242	.484	.726	.968	.966	.936	.913	.895	.881	.869	.851	.837	.827	.812
19	Basic Premium Ratio	.720	.439	.159	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.280	.561	.841	.979	.942	.915	.894	.878	.865	.854	.838	.826	.817	.805

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
18	Basic Premium Ratio	.672	.344	.016	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.328	.656	.984	.954	.920	.896	.877	.863	.851	.842	.827	.817	.810	.799
17	Basic Premium Ratio	.617	.234	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.383	.766	.977	.932	.902	.879	.863	.850	.839	.831	.819	.810	.803	.794
16	Basic Premium Ratio	.550	.100	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.450	.900	.953	.913	.885	.865	.851	.839	.830	.823	.812	.804	.798	.790
15	Basic Premium Ratio	.477	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.523	.992	.932	.896	.872	.854	.841	.831	.822	.816	.806	.799	.794	.788
14	Basic Premium Ratio	.414	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.586	.973	.912	.881	.861	.846	.834	.825	.818	.812	.804	.797	.793	.787
13	Basic Premium Ratio	.344	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.656	.953	.889	.867	.851	.838	.828	.821	.814	.809	.801	.796	.791	.786
12	Basic Premium Ratio	.256	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.744	.931	.874	.856	.842	.831	.823	.816	.810	.806	.799	.794	.790	.785
11	Basic Premium Ratio	.159	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.841	.906	.860	.846	.834	.825	.818	.812	.807	.803	.796	.792	.788	.784
10	Basic Premium Ratio	.042	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.958	.879	.848	.836	.827	.819	.813	.807	.803	.800	.794	.790	.787	.783
9	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.982	.850	.838	.828	.820	.813	.808	.803	.800	.797	.792	.788	.786	.782
8	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.952	.838	.828	.820	.813	.808	.803	.800	.796	.794	.790	.787	.784	.781
7	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.917	.828	.820	.813	.807	.803	.799	.796	.793	.791	.788	.785	.783	.780
6	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.876	.818	.812	.806	.802	.798	.795	.792	.790	.788	.785	.783	.782	.779
5	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.826	.809	.804	.800	.797	.794	.791	.789	.787	.786	.783	.782	.780	.778
4	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.815	.800	.797	.794	.792	.790	.788	.786	.785	.784	.782	.781	.779	.777

AMENDATORY SECTION (Amending WSR 04-24-025, filed 11/23/04, effective 1/1/05)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of ~~((37.1))~~ 31.2 mills (~~\$(0371))~~ .0312) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before

the last day of January, April, July and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-060. All such moneys shall be deposited in the supplemental pension fund.

WSR 05-23-174
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket No. PG-050933, General Order No. R-524—Filed November 23, 2005, 11:01 a.m., effective December 24, 2005]

In the matter of amending WAC 480-93-005, 480-93-017, 480-93-178 and 480-93-200, relating to Gas companies—Safety.

1 SYNOPSIS. In this order, the commission adopts changes to certain pipeline safety rules in chapter 480-93 WAC, correcting and clarifying the language in WAC 480-93-005, 480-93-017, 480-93-178, and 480-93-200.

2 STATUTORY OR OTHER AUTHORITY. The Washington Utilities and Transportation Commission (commission) takes this action under Notice No. WSR 05-20-095, filed with the code reviser on October 5, 2005. The commission takes this action under RCW 80.04.160, 80.28.210(1), and 80.01.040(1).

3 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).

4 DATE OF ADOPTION. The commission adopts these rules on the date this order is entered.

5 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE. RCW 34.05.325(6) requires the commission prepare and provide to commenters 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 Washington State Register and the rules as adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and provide the commission's responses to the comments, reflecting the commission's consideration of them.

6 The commission often discusses these matters in its rule adoption order. In addition, commission staff discusses these matters in memoranda, which include summaries of stakeholder comments, commission decisions, and staff recommendations.

7 In this docket, to avoid duplication, the commission designates the discussion in this order as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda presented at the adoption hearing and at the open meetings where the commission considered whether to begin a rule making and whether to propose adoption of specific language. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

8 REFERENCE TO AFFECTED RULES. This rule amends the following sections of the Washington Administrative Code: Amending WAC 480-93-005 Definitions, 480-93-017 Filing requirements for design, specification, and construction procedures, 480-93-178 Protection of plastic pipe, and 480-93-200 Reporting requirements for operators of gas facilities.

9 The rules are amended as follows:

- WAC 480-93-005(18) is amended to clarify the definition of "prompt action."
- The first sentence of WAC 480-93-017(1) is amended to include "intending to operate," rather than "operating" a gas pipeline facility.
- WAC 480-93-178(5) is amended to add the language "such as inserting the plastic pipeline in conduit" to provide operators an example within the section.
- WAC 480-93-200 (1)(e) is amended to change the number of customers from twenty to twenty-five.
- WAC 480-93-200(6) is amended to clarify the types of reports to be filed and that requested reports are due no later than March 15, for the preceding calendar year.

10 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER. The commission filed a preproposal statement of inquiry (CR-101) on August 3, 2005, at WSR 05-16-118. The statement advised interested persons that the commission was considering a rule making to correct and clarify sections of the recently adopted chapter 480-93 WAC relating to natural gas pipeline operations. The commission completed a comprehensive review of its safety rules in chapter 480-93 WAC effective on June 2, 2005. Commission staff and stakeholders identified concerns with several particular rules while implementing the new rules.

11 ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting this information under RCW 34.05.320(3) and the commission's lists of all gas pipelines operating in the state, persons interested in gas companies, pipeline safety, and regulatory rule makings, as well as to attorneys representing these companies or persons. In response to the notice, the commission received comments from Puget Sound Energy (PSE), and Cascade Natural Gas (Cascade). The Northwest Industrial Gas Users also stated their interest in the rule making.

12 On September 7, 2005, the commission circulated to interested persons a draft of suggested changes to WAC 480-93-005(18), 480-93-017, 480-93-178(5), and 480-93-200. The commission received comments from Cascade, PSE, and Avista Utilities supporting the suggested changes. The commenters also requested additional changes to WAC 480-93-200 to clarify the types of reports required and the timing for filing the reports.

13 NOTICE OF PROPOSED RULE MAKING. The commission filed a notice of proposed rule making (CR-102) on October 5, 2005, at WSR 05-20-095. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 05-20-095 at 9:30 a.m., Wednesday, November 9, 2005, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission by October 26, 2005.

14 MEETINGS OR WORKSHOPS; ORAL COMMENTS. The commission did not hold a meeting or workshop in this rule-

making proceeding. Given the narrow focus of the rule making, i.e., to correct errors or clarify existing language, the commission requested written and oral comments during the rule-making process. The commission received no oral comments during the November 9, 2005, adoption hearing.

15 COMMENTERS (WRITTEN COMMENTS). The commission received written comments from PSE and Raymond A. Allen, P.E., a corrosion control engineer, both supporting the proposed rules.

16 RULE-MAKING HEARING. The commission considered the rule proposal for adoption at a hearing scheduled during the commission's November 9, 2005, open public meeting. Chairman Mark Sidran and Commissioners Patrick Oshie and Philip Jones were present at the hearing. No interested person made oral comments.

17 COMMISSION ACTION. After considering all of the information about this proposal, the commission amends and adopts the proposed rule amendments without changes to the language proposed in the notice of proposed rule making.

18 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE. In reviewing the entire record, the commission determines that WAC 480-93-005(18), 480-93-017, 480-93-178(5), and 480-93-200 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect under 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 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 4, 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.

ORDER

THE COMMISSION ORDERS:

19 WAC 480-93-005(18), 480-93-017, 480-93-178(5), and 480-93-200 are amended and adopted 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).

20 This order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, will be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 22nd day of November, 2005.

Washington Utilities and Transportation Commission

Mark H. Sidran, Chairman

Patrick J. Oshie, Commissioner

Philip B. Jones, Commissioner

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

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) "**Follow-up inspection**" means an inspection performed after a repair has been completed in order to determine the effectiveness of the repair.

(9) "**Gas**" means natural gas, flammable gas, or gas that is toxic or corrosive.

(10) "**Gas associated substructures**" means those devices or facilities utilized by an operator which are not intended for storing, transporting, or distributing gas, such as valve boxes, vaults, test boxes, and vented casing pipe.

(11) "**Gas 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.

(12) "**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) "**Indication**" means a response indicated by a gas detection instrument that has not been verified as a reading.

(14) "**LEL**" means the lower explosive limit of the gas being transported.

(15) "**MAOP**" means maximum allowable operating pressure.

(16) "**Master meters system**" is defined as set forth in 49 CFR § 191.3.

(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 natural gas by pipeline, or having for one or more of its principal purposes the construction, maintenance, or operation of pipelines for transporting natural 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 natural gas by pipeline" means transmission or distribution of natural 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 that term is defined in WAC 480-93-005.

(18) "**Prompt action**" means to dispatch qualified personnel without undue delay (~~for the purpose of evaluating and, where necessary, abating an existing or probable hazard~~).

(19) "**Psig**" means pounds per square inch gauge.

(20) "**Public service company**" is defined in RCW 80.04.010.

(21) "**Reading**" means a repeatable representation on a combustible gas indicator or equivalent instrument expressed in percent LEL or gas-air ratio.

(22) "**Sniff test**" means a qualitative test utilizing both threshold and readily detectable methods for determining proper concentrations of odorant.

(23) "**Transmission line**" means a gas pipeline as defined in 49 CFR § 192.3 on the date specified in WAC 480-93-999.

(24) "**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.

(25) 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 480-93-017 Filing requirements for design, specification, and construction procedures. (1) Any operator (~~operating~~) intending to operate a gas pipeline facility in this state must file with the commission all applicable construction procedures, designs, and specifications used for each pipeline facility prior to operating the pipeline. All procedures must detail the acceptable types of materials, fittings, and components for the different types of facilities in the operator's system.

(2) With the exception of emergency situations, any construction plans that do not conform with a gas 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 No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-178 Protection of plastic pipe. (1) Every operator must have detailed written procedures for the storage, handling, and installation of plastic pipelines. Except for joining procedures, and unless the operator has more stringent procedures, the storage, handling, and installation of all plastic pipe must be in accordance with the latest applicable manufacturer's recommended practices.

(2) The 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 procedures manual.

(3) Plastic pipe that is pulled through the ground by mechanical means must have a weak link installed that will ensure the pipe will not be damaged by excessive tensile forces.

(4) When installing plastic pipelines parallel to other underground utilities, operators 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 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 plastic pipelines perpendicular to other underground utilities, operators 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 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 plastic pipe may be temporarily installed above ground is thirty days.

(a) During temporary installations, operators must monitor and protect above ground plastic pipe from potential damage.

(b) Operators may install above ground plastic pipe for periods longer than thirty days if they have a written monitoring program and notify the commission by telephone 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 No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-200 Reporting requirements for operators of gas facilities. (1) Every operator must give notice to the commission by telephone within two hours of discovering an incident or hazardous condition arising out of its operations that:

- (a) Results in a fatality or personal injury requiring hospitalization;
- (b) Results in damage to the property of the operator and others of a combined total exceeding fifty thousand dollars;
- (c) Results in the evacuation of a building, or high occupancy structures or areas;
- (d) Results in the unintentional ignition of gas;
- (e) Results in the unscheduled interruption of service furnished by any operator to ~~((twenty))~~ 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;
- (g) Is significant, in the judgment of the operator, even though it does not meet the criteria of (a) through (e) of this subsection; or
- (h) Results in the news media reporting the occurrence, even though it does not meet the criteria of (a) through (e) of this subsection.

(2) Operators must give notice to the commission by telephone within twenty-four hours of occurrence of every 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 pipeline out of service;
 - (c) A pipeline or system operating at low pressure dropping below the safe operating conditions of attached appliances and gas equipment; or
 - (d) A pipeline or system pressure exceeding the MAOP.
- (3) Routine or planned maintenance and operational activities of the operator 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 must provide to the commission a written report within thirty days of the initial telephonic report required under subsection (1) of this section. At a minimum, 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;

(d) A description of the gas facilities involved in the incident or hazardous condition, the system operating pressure at that time, and the MAOP of the facilities involved;

- (e) The date and time the gas facility was made safe;
- (f) The date, time, and type of any temporary or permanent repair made; and
- (g) The cost of the incident to the operator.

(5) Operators must provide to the commission a written report within forty-five days of receiving the failure analysis of any incident or hazardous condition that was due to construction defects or material failure.

(6) Operators 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(;-)" ~~((with the corresponding PHMSA fiscal year.))~~ 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 either:
 - (A) Inaccurate locate;
 - (B) Failure to use reasonable care; or
 - (C) Excavated prior to a locate being conducted.

(c) A report detailing ~~((the results from construction defects or))~~ all construction defects and material failures resulting in leakage. Operators 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.

(7) Operators must file with the commission, and with appropriate officials of all municipalities where operators have facilities, the names, addresses, and telephone numbers of the responsible officials of the operator who may be contacted in the event of an emergency. In the event of any changes in operator personnel, the operator must notify immediately the commission and municipalities.

(8) Operators must send daily reports of construction and repair activities electronically to the commission. Operators may send reports either by facsimile or e-mail to the commission. The reports must be received no later than 10:00 a.m. each day of the scheduled work, and must include both operator and contractor construction and repair activities.

(9) When an operator 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 must simultaneously submit a copy of the form to the commission.

